

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 _____) Case No.
8) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES) Hon. Dan A.
11 TO ALL CASES) Polster
12)

13 TUESDAY, JULY 31, 2018

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
15 CONFIDENTIALITY REVIEW

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17 Videotaped deposition of Nathan J.
18 Hartle, held at the offices of Covington &
19 Burlington, LLP, One City Center, 850 Tenth
20 Street Northwest, Washington, DC, commencing
21 at 9:04 a.m., on the above date, before
22 Carrie A. Campbell, Registered Diplomate
23 Reporter, Certified Realtime Reporter,
24 Illinois, California & Texas Certified
25 Shorthand Reporter, Missouri & Kansas
Certified Court Reporter.

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19 TRIAL TECHNICIAN:

COREY SMITH,
20 Golkow Litigation Services

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Country	Percentage of respondents who believe the U.S. should take more action to reduce global warming
United States	83%
France	79%
Germany	78%
Spain	77%
Italy	76%
China	75%
Japan	74%
South Korea	73%
India	72%
U.K.	71%
Mexico	53%

16

(Exhibits attached to the deposition.)

17

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1 VIDEOGRAPHER: All right. We
2 are now on the record.

3 My name is Daniel Holmstock. I
4 am the videographer for Golkow
5 Litigation Services.

6 Today's date is July 31, 2018.
7 The time on the video screen is
8 9:04 a.m.

9 This video deposition is being
10 recorded at the law firm of Covington
11 & Burling LLP at 850 Tenth Street,
12 Northwest, in Washington, DC, in the
13 matter of In Re: National Prescription
14 Opiate Litigation. It is pending
15 before the United States District
16 Court for the Northern District of
17 Ohio, Eastern Division.

18 The deponent today is Mr. Nate
19 Hartle.

20 Will counsel please introduce
21 themselves and whom they represent.

22 MR. FARRELL: Paul Farrell on
23 behalf of the plaintiffs.

24 MR. RAFFERTY: Troy Rafferty on
25 behalf of the plaintiffs.

1 MR. FULLER: Mike Fuller on
2 behalf of plaintiffs.

3 MR. SUDDATH: Tom Suddath on
4 behalf of AmerisourceBergen.

5 MR. BOGLE: Brandon Bogle on
6 behalf of the plaintiffs.

7 MR. PELINI: Craig Pelini,
8 Prescription Supply.

9 MR. FAUVRE: David Fauvre on
10 behalf of the Endo and Par
11 Pharmaceutical defendants.

12 MR. LOVRIEN: Chris Lovrien,
13 Jones Day, on behalf of Walmart.

14 MR. DAVISON: Bill Davison,
15 Ropes & Gray, on behalf of
16 Mallinckrodt, LLC, and SpecGx, LLC.

17 MS. PETERSEN: Miranda
18 Petersen, Williams & Connolly, on
19 behalf of Cardinal Health, Inc.

20 MS. MCNAMARA: Colleen
21 McNamara, Williams & Connolly, on
22 behalf of Cardinal Health, Inc.

23 MR. LIVINGSTON: Scott
24 Livingston on behalf of HBC.

25 MR. O'CROININ: Conor

1 O'Croinin, CVS.

2 MS. MONAGHAN: Meghan Monaghan,
3 Covington & Burling, on behalf of
4 McKesson and the witness.

5 MS. HENN: Emily Henn,
6 Covington & Burling, on behalf of
7 McKesson and the witness.

8 VIDEOGRAPHER: Via telephone?

9 MS. PEDROZA: This is Monica
10 Pedroza on behalf of Teva
11 Pharmaceuticals USA, Inc., Cephalon
12 Inc., Watson Laboratories, Inc.,
13 Actavis, LLC, and Actavis Pharma, Inc.

14 MR. LAVELLE: John Lavelle on
15 behalf of Rite Aid.

16 MR. MONTMINY: Brendan Montminy
17 on behalf Henry Schein, Inc., and
18 Henry Schein Medical Systems, Inc.

19 MR. AUBEL: Bill Aubel, Jackson
20 Kelly, on behalf of Miami-Luken, Inc.

21 MR. WEINBERGER: Pete
22 Weinberger on behalf of the
23 plaintiffs.

24 VIDEOGRAPHER: The court
25 reporter is Carrie Campbell, who will

1 now administer the oath to the
2 witness.

3

4 NATHAN J. HARTLE,
5 of lawful age, having been first duly sworn
6 to tell the truth, the whole truth and
7 nothing but the truth, deposes and says on
8 behalf of the Plaintiffs, as follows:

9

10 DIRECT EXAMINATION
11 QUESTIONS BY MR. FARRELL:

12 Q. Good morning.

13 A. Good morning.

14 Q. Please state your name.

15 A. My name is Nathan -- I go by
16 Nate -- John Hartle.

17 Q. And what is your occupation,
18 and who is your employer?

19 A. I'm currently a vice president
20 of regulatory affairs and compliance for
21 McKesson Corporation.

22 Q. How long have you been employed
23 by McKesson?

24 A. Since May of 2014.

25 Q. Have you ever had your

1 deposition taken before?

2 A. 20 years ago when I -- when I
3 worked at a previous employer for a theft
4 case, investigative.

5 Q. So if you'll bear with me,
6 we're going to do a little bit of paperwork
7 to start -- to start off.

8 A. Okay.

9 Q. The first thing is, is are you
10 aware that today you'll be testifying not as
11 Nate Hartle but as McKesson Corporation?

12 A. I am.

13 (McKesson-Hartle Exhibit 1
14 marked for identification.)

15 QUESTIONS BY MR. FARRELL:

16 Q. I'm going to have marked and
17 show you McKesson 30(b)(6) Document 1, and
18 this is the first notice of deposition that
19 was filed in this case.

20 Have you had a chance to review
21 this document before today?

22 A. I do. I have copies of this.

23 Q. And you understand that today
24 I'll be asking you questions about the
25 subject matters that are in Exhibit 1, and

1 McKesson has been kind enough to designate
2 you as its spokesman to answer these
3 questions?

4 MS. HENN: Objection to form.

5 THE WITNESS: I understand.

6 (McKesson-Hartle Exhibit 2
7 marked for identification.)

8 QUESTIONS BY MR. FARRELL:

9 Q. There's a second notice. We'll
10 have that marked as Exhibit 2, and it's MCK
11 30(b)(6)_02.

12 Have you had a chance to review
13 this document before today?

14 A. I have.

15 Q. Now, it's my understanding that
16 McKesson has designated you to testify on
17 certain subject matters within this document
18 but not all.

19 Is that your understanding?

20 A. Correct.

21 Q. And those numbers are numbers
22 9, 14, 16, 17, 18, 19, 20, 21 and 22.

23 Is that your understanding as
24 well?

25 A. Yes.

1 (McKesson-Hartle Exhibit 3
2 marked for identification.)

3 QUESTIONS BY MR. FARRELL:

4 Q. The next document, just to be
5 fair, is I'm going to mark as Exhibit 3
6 McKesson's objections and responses to each
7 of these subject matters to create the whole
8 record, if anybody wants to see it. This
9 will be McKesson 30(b)(6)_3.

10 Have you had a chance to review
11 this document before today?

12 A. I have.

13 Q. It's much longer, isn't it?

14 (McKesson-Hartle Exhibit 4
15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. And finally, I'm going to show
18 you McKesson 30(b)(6)_4, which we've also
19 labeled as Exhibit 4, which is simply the
20 redesignation of the date and location and
21 the subject matters of today's deposition.

22 Have you had a chance to review
23 this document?

24 A. I have.

25 Q. So that everybody is on the

1 same page, what you'll notice is that there
2 are a number of different Bates stamps that
3 we'll see throughout the day. For purposes
4 of this deposition, what we've done is we've
5 created a unique and separate Bates stamp
6 just for your deposition, which can be found
7 in the top right-hand corner of, I hope, all
8 of the exhibits today. And some of them,
9 start MCK 30(b)(6) and then underscore, and
10 then the first number you'll see is the
11 sequential number of exhibits, followed by a
12 dash and then individual page numbers.

13 As we go through later today, I
14 abandon the normal sequential numbering
15 system because we're going to bounce around
16 the timeline a little bit, and instead I use
17 basically a date indicator in the top
18 right-hand corner.

19 A. Okay.

20 Q. Now, that being said for
21 everybody on the telephone, a lot of these
22 documents have been produced in this
23 litigation, and what you'll find, to the best
24 of my ability, is I've always tried to find
25 the document that contains the MDL Bates

1 stamp in the bottom right-hand corner.
2 Sometimes it's not been all that successful
3 because sometimes the document comes from a
4 prior production and has not yet matriculated
5 or made its way over to the MDL production.

6 But nonetheless, those are the
7 three different Bates stamp numbering systems
8 that we're going to come across today, and
9 when I talk on the record, I'll try to refer
10 just to the MDL number.

11 For the people on the telephone
12 and the record and then for you and I, it'll
13 be easiest for us to use the top right-hand
14 corner.

15 A. Okay.

16 Q. When did you first learn that
17 you would be designated as the corporate
18 witness for McKesson?

19 A. I don't know the exact date,
20 but I believe within the last, say, 30 days
21 or so.

22 Q. Do you know Gary Boggs?

23 A. I do know Gary.

24 Q. Are you aware that he has been
25 designated as a 30(b)(6) designee in another

1 litigation pending in West Virginia?

2 A. I am aware.

3 Q. Have you read the deposition of
4 McKesson from that litigation?

5 A. I have.

6 Q. Is there anything in that
7 deposition that you think is wrong or
8 factually inaccurate?

9 A. Not that I can recall.

10 Q. Are you prepared, sitting here
11 today, to adopt or affirm the representations
12 McKesson made in the West Virginia Attorney
13 General litigation?

14 MS. HENN: Objection to form.

15 THE WITNESS: Can you ask that
16 again, please?

17 QUESTIONS BY MR. FARRELL:

18 Q. So it's a little bit of a
19 Plato's Theory of the Forms right now, but
20 for all intents and purposes, McKesson is
21 sitting here in front of me today, and
22 McKesson was sitting before Mr. Lee Javins
23 from the West Virginia Attorney General
24 litigation pending in Boone County several
25 weeks ago.

1 And so I'm trying to make the
2 connection that sitting here today McKesson
3 affirms or adopts all of its testimony from
4 the West Virginia litigation.

5 MS. HENN: Objection to form.

6 This witness is here on -- designated
7 on behalf of McKesson for the topics
8 you've indicated.

9 But you can answer the
10 question.

11 THE WITNESS: I'm not sure how
12 to answer that question.

13 QUESTIONS BY MR. FARRELL:

14 Q. Okay. So the answer is either
15 you adopt your testimony from the prior
16 litigation or you choose not to today.

17 MS. HENN: Objection to form.

18 QUESTIONS BY MR. FARRELL:

19 Q. It's okay either way.

20 A. What's that?

21 Q. It's okay either way.

22 A. Yeah.

23 Q. It's just a question of whether
24 or not I'm going to go back through some of
25 the other subject matters that Gary Boggs

1 testified to or whether or not I can rely on
2 that sworn testimony --

3 A. Okay.

4 Q. -- to be applicable today.

5 MS. HENN: Objection to form,
6 and same comment as I made before.

7 MR. FARRELL: So, Counsel,
8 that's your second speaking objection,
9 and so I would ask that you keep your
10 comments from the record.

11 QUESTIONS BY MR. FARRELL:

12 Q. So it's okay if you do not want
13 to adopt that prior testimony. We can go
14 through it today. You may not have the
15 authority by McKesson to do so.

16 A. Yeah. Again, I'm not sure how
17 to answer that question specifically.

18 Q. It's not a problem.

19 A. Yeah. Okay.

20 Q. Can you tell me what documents
21 you reviewed to prepare for today's
22 testimony?

23 MS. HENN: I'm going to object
24 to that question as calling for
25 attorney work product and instruct the

1 witness not to respond if you're being
2 asked, as I understand you are, for a
3 list of documents counsel showed you.

4 QUESTIONS BY MR. FARRELL:

5 Q. Okay. Have all of the
6 documents that counsel shared with McKesson
7 been disclosed in the MDL?

8 MS. HENN: Do you mean to ask
9 whether the documents Mr. Hartle has
10 used in preparing for the deposition,
11 have they been produced?

12 MR. FARRELL: Yes.

13 MS. HENN: I believe that to be
14 the case, yes.

15 QUESTIONS BY MR. FARRELL:

16 Q. Okay. So is it fair to say
17 that everything Mr. Hartle reviewed has
18 actually been produced in the litigation
19 today?

20 MS. HENN: That is my
21 understanding.

22 MR. FARRELL: The reason I ask
23 is because when I read Mr. Boggs'
24 testimony, there are references to a
25 dozen or so documents that he relied

1 upon and discussed that have not yet
2 been disclosed in the MDL.

3 Are you aware of any documents
4 that are pending that have not been
5 produced?

6 MS. HENN: I know that we're
7 not complete with our productions, but
8 I'm not -- I don't know what those
9 documents -- what documents you're
10 referring to.

11 MR. FARRELL: So to the extent
12 that there are future documents that
13 are produced that are relevant to the
14 subject matters that are in the
15 30(b)(6) notices, we reserve our right
16 to petition the Court for good cause
17 to extend or continue this deposition.

18 MS. HENN: I note your
19 reservation of rights. We may
20 disagree on the ability of plaintiffs
21 to continue this deposition, but let's
22 continue.

23 QUESTIONS BY MR. FARRELL:

24 Q. Other than the documents
25 provided by counsel to you in preparation for

1 this deposition, did you on your own review
2 any documents?

3 A. Yes, I reviewed a handful of
4 documents that are standard with our program.

5 Q. Okay. Can you tell me which
6 ones they are?

7 A. Can I ask a clarifying
8 question? Can you repeat -- do the documents
9 that had already -- documents that haven't
10 been produced? Anything in addition to
11 what --

12 Q. That would be a swell place to
13 start.

14 A. You know, as I think about
15 things that I've reviewed, it's standard
16 operating manuals and procedures, and I think
17 likely all that -- that stuff is part of what
18 was produced, so I don't --

19 Q. That's actually not a very fair
20 way to place it because you probably haven't
21 studied the production list yet from
22 McKesson.

23 A. No. No.

24 Q. So let's talk about it in a
25 different context.

1 A. Okay.

2 Q. I'm assuming at some point in
3 time your counsel provided you some documents
4 that they culled through based upon the legal
5 documents, and that, arguably, has been the
6 subject of some debate between the lawyers on
7 whether that list is producible or not.

8 Aside from that, did you
9 independently go and review anything on your
10 own, document-wise, to prepare for today?

11 A. Document-wise? You know, I
12 looked at files of mine, you know, just, you
13 know, what I -- what I have in my own, you
14 know, storage on things that I've done or
15 projects that I've been on and reviewed just
16 a variety of different pieces of information
17 that personally I have.

18 Q. Where would those files be
19 located?

20 A. On my computer, whether it be
21 e-mails or in documents on my standard
22 storage on my computer.

23 Q. Would it be documents from
24 MCK.NET?

25 A. I don't think there was

1 anything stored on MCK.NET, our intra -- the
2 company's intra site.

3 Q. I just wanted to say MCK.NET.

4 A. MCK.NET, yeah.

5 Q. Did you review documents that
6 were on your personal computer -- that's a
7 bad question.

8 Did you review documents that
9 are located on your hard drive of your
10 computer?

11 A. My work computer?

12 Q. Yes.

13 A. Yes.

14 Q. Would those documents also have
15 been on the server?

16 A. Could you clarify "server"?

17 Q. Yeah. So in general, when you
18 have a network of computers, sometimes
19 there's a central repository where
20 everybody's computer can pull up files from,
21 and then there's also on your own computer a
22 hard drive that nobody else can look at,
23 except you, from your computer station.

24 A. I understand that, sir, but
25 I -- you know, in terms of the shared

1 repository that we use in regulatory affairs,
2 yes, there's documents stored on there that
3 I've reviewed.

4 Q. What about documents on your
5 personal hard drive on your office computer?

6 A. Yes, I store documents on my
7 personal office computer.

8 Q. And those documents you
9 reviewed prior to today's deposition?

10 MS. HENN: Objection to form.

11 THE WITNESS: There are some
12 documents.

13 QUESTIONS BY MR. FARRELL:

14 Q. Did you rely on any of those
15 documents or did any of those documents
16 refresh your recollection about the subject
17 matters of today's deposition?

18 A. I used --

19 MS. HENN: Objection to form.

20 Go ahead.

21 THE WITNESS: I used them to
22 refresh.

23 QUESTIONS BY MR. FARRELL:

24 Q. Okay. How about e-mails? Did
25 you go and review any old e-mails?

1 A. I may have looked at a few
2 e-mails.

3 Q. Do any of them particularly
4 stand out?

5 A. No.

6 Q. Who would the e-mails have come
7 from that you were reviewing?

8 MS. HENN: Objection to form.

9 THE WITNESS: Could be a
10 variety of people. I don't recall,
11 you know, specific e-mails that I
12 looked at. Could be from my team or
13 part of a project or...

14 QUESTIONS BY MR. FARRELL:

15 Q. And I'm sorry if I asked this
16 before. How long have you been with
17 McKesson?

18 A. Since 2014. May of 2014.

19 Q. You understand that some of the
20 subject matters today may predate 2014?

21 A. I do understand that.

22 Q. Other than documents provided
23 by your lawyer, where did you find documents
24 that predated 2014?

25 MS. HENN: Objection to form.

1 THE WITNESS: They would be on
2 our shared drive or our space where
3 regulatory affairs -- it's called the
4 R drive. That's where we would share
5 information.

6 QUESTIONS BY MR. FARRELL:

7 Q. Okay. Other than the R drive,
8 where else would we find those documents?

9 MS. HENN: Objection to form.

10 THE WITNESS: I'm not sure -- I
11 don't believe I accessed anything else
12 outside of the hard drive. I know
13 there's other sites, a share point
14 site in the past, but I believe mine
15 were all from the R drive.

16 QUESTIONS BY MR. FARRELL:

17 Q. Have you reviewed any documents
18 or seen any documents that predate 2006?

19 A. I have.

20 Q. And did you -- where did those
21 documents come from?

22 I'll make it easier. Did those
23 documents come from the lawyers?

24 A. I have some in the -- the -- my
25 preparation over the past few days, but also

1 I do have documents, as I joined McKesson,
2 that I reviewed and had stored either on my
3 personal computer, on my work computer, or
4 the R drive that predate 2006.

5 Q. All right. So we're going to
6 jump into some topics.

7 A. Okay.

8 Q. Have you read the Masters
9 Pharmaceutical case?

10 A. Not for a while. I read it
11 when it first came out, you know.

12 Q. That was June of 2017.
13 So when I start asking
14 questions, I'm going to do my very best to
15 keep envisioning McKesson's logo sitting in
16 front of me instead of Nate Hartle.

17 A. Okay.

18 Q. So let me ask a different way.

19 Is McKesson aware of the
20 publishing of the Masters Pharmaceutical
21 case?

22 MS. HENN: Objection to form.

23 THE WITNESS: We are.

24 QUESTIONS BY MR. FARRELL:

25 Q. You're aware that in Masters

1 Pharmaceutical there was a discussion of the
2 reporting requirement?

3 A. I am.

4 Q. And does McKesson acknowledge
5 that is the law in the United States?

6 MS. HENN: Objection to form.

7 THE WITNESS: Could you ask
8 that question again, please? Do I --

9 QUESTIONS BY MR. FARRELL:

10 Q. Sure.

11 I'm jumping out of order a
12 little bit, but I'm going to see if I can
13 actually grab the folder for you.

14 We're not going to premark this
15 because that will absolutely mess up my
16 numbering system, but the top right-hand
17 corner it's Bates stamped 2017_06_30.

18 And I apologize for the
19 flopping of the documents across the big
20 table.

21 This is Masters Pharmaceutical.
22 Has McKesson read this document?

23 MS. HENN: Objection to form.

24 THE WITNESS: I believe that
25 several have read this document.

1 QUESTIONS BY MR. FARRELL:

2 Q. Have you read this document in
3 preparation for today's deposition?

4 A. Did I have it in the past?

5 Q. No.

6 In preparation for today's
7 deposition, have you read this as McKesson's
8 corporate designee?

9 A. I did not read this specific
10 right before the deposition.

11 Q. So it's not -- it's not a
12 memory contest --

13 A. Right.

14 Q. -- and that's why I brought the
15 documents --

16 A. Right.

17 Q. -- so that -- so that we can
18 talk about some of the subject matters.

19 The first thing I'd like you to
20 do is turn to the Bates stamp page 7. And
21 you'll notice that there are two columns, and
22 in the bottom right-hand corner the paragraph
23 heading number 2.

24 Do you see that?

25 A. Yes.

1 Q. And midway down through, you'll
2 see that in the parentheses it says the
3 "reporting requirement."

4 A. I see that.

5 Q. Do you see it?

6 A. I do.

7 Q. And then immediately after
8 that, it describes what the reporting
9 requirement is. And I don't know if you do
10 better reading it aloud or reading it to
11 yourself.

12 Would you like me to read it,
13 or would you like to read it?

14 A. I can read it.

15 Q. All right. Starting with "the
16 reporting requirement is a relatively modest
17 one," will you finish the sentence?

18 A. I read that sentence.

19 Q. Okay. Now, will you read it
20 aloud?

21 A. "It requires only that a
22 distributor provide basic information about
23 certain orders to DEA so that DEA
24 investigators in the field can aggregate
25 reports from every point along the legally

1 regulated supply chain and use the
2 information to ferret out potentially illegal
3 activity."

4 Q. Does McKesson acknowledge that
5 it has a duty under the reporting
6 requirement?

7 MS. HENN: Objection to form.

8 THE WITNESS: Acknowledge that
9 we -- we, as part of the designing and
10 operating the suspicious order system,
11 have to report suspicious orders.

12 QUESTIONS BY MR. FARRELL:

13 Q. That wasn't my question.

14 My question is: Does McKesson
15 acknowledge the reporting requirement, as you
16 just read aloud, is a duty owed by McKesson
17 under the federal regulations and United
18 States Code?

19 MS. HENN: Objection to form.

20 THE WITNESS: And it's our
21 responsibility to report suspicious
22 orders.

23 QUESTIONS BY MR. FARRELL:

24 Q. So the answer to my question is
25 yes --

1 A. Yes.

2 Q. -- no, or I don't know.

3 MS. HENN: Objection to form.

4 THE WITNESS: It is our -- yes.

5 QUESTIONS BY MR. FARRELL:

6 Q. Okay. Now, I want you to go
7 down, and if you actually flip the page,
8 we'll cheat to the end, and it's the end of
9 the first sentence in the top left-hand
10 corner. In parentheses it says, "The
11 shipping requirement."

12 Do you see that?

13 A. Where am I looking again?
14 Sorry.

15 Q. Very top left-hand corner
16 there's a --

17 A. Okay. Shipping requirement. I
18 see that.

19 Q. All right. Now what we're
20 going to do is go to the beginning of that
21 sentence on the previous page, and it's the
22 last full sentence. It starts with "once a
23 distributor has."

24 Do you see that sentence?

25 A. I see that.

1 Q. Now I'm going to give you a
2 chance to read it without -- and digest it
3 for a second.

4 A. I've read that.

5 Q. All right. Now, can you read
6 it aloud for the record?

7 A. "Once a distributor has
8 reported a suspicious order, it must make one
9 of two choices, decline to ship the order or
10 conduct some due diligence, and if it is able
11 to determine that the order is not likely to
12 be diverted into illegal channels, ship the
13 order."

14 Q. Does McKesson acknowledge that
15 the shipping requirement is a duty it owes
16 under the United States Code and the Code of
17 Federal Regulations?

18 MS. HENN: Objection to form.

19 THE WITNESS: Yes.

20 (McKesson-Hartle Exhibit 5

21 marked for identification.)

22 QUESTIONS BY MR. FARRELL:

23 Q. We'll come back to this later.

24 All right. The next document
25 we're going to reference is MCK 30(b)(6)_5.

1 And so to make this easy so I don't have to
2 say all those letters and numbers, as we move
3 forward I'm just going to refer to it exhibit
4 such-and-such.

5 A. Okay.

6 Q. And when I do, we're talking
7 about the exhibit for this deposition.

8 I'm going to represent to you
9 that there are four pages to this exhibit,
10 that you won't find this exhibit anywhere on
11 the Internet because I made them myself. I'm
12 going to give you a second to flip through
13 them, and what I'm going to represent to you
14 is that these are four different provisions
15 from four different United States Code
16 provisions. So I'll give you a second to
17 review.

18 A. Okay.

19 Q. So the first thing I want you
20 to take note of on Exhibit 5, page 1, is the
21 top left-hand corner, which is the great seal
22 of our United States Congress.

23 And if you look under the
24 United States Code, Title 21, for food and
25 drugs, under Chapter 13, Drug Abuse

1 Prevention and Control, Subchapter 1, Control
2 and Enforcement, Part A, Introductory
3 Provisions, this is the beginning of the
4 Controlled Substances Act.

5 McKesson is aware of and
6 acknowledges that its role in the chain of
7 distribution of opioids is governed by the
8 Controlled Substances Act, agreed?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. FARRELL:

12 Q. Now, I'm going to have you look
13 down all the way at all those letters and
14 numbers at the very bottom, Public Law
15 91-513, Title 2. And the date there is
16 October 27, 1970.

17 McKesson is aware that the
18 Controlled Substances Act has been in force
19 and effect since 1970, correct?

20 MS. HENN: Objection to form.

21 THE WITNESS: Correct.

22 QUESTIONS BY MR. FARRELL:

23 Q. So Section 801, which is on the
24 first page, is Congressional findings and
25 declarations regarding controlled substances.

1 Do you see that?

2 A. I do.

3 Q. And it says, "The Congress
4 agrees makes the following findings and
5 declarations."

6 And to be fair, paragraph 1,
7 will you read it aloud?

8 A. "Many of the drugs included
9 within this subchapter have a useful and
10 legitimate medical purpose and are necessary
11 to maintain the health and general welfare of
12 the American people."

13 Q. Does McKesson acknowledge and
14 agree with that finding?

15 MS. HENN: Objection to form.

16 THE WITNESS: Yes.

17 QUESTIONS BY MR. FARRELL:

18 Q. Now, will you read Section 2
19 aloud, please?

20 A. "The illegal importation,
21 manufacture, distribution and possession and
22 improper use of controlled substances have
23 substantially and detrimentally effect --
24 have a substantial and detrimental effect on
25 the health and general welfare of the

1 American people."

2 Q. Does McKesson acknowledge and
3 agree with those findings?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. So you'll notice in paragraph 2
8 it includes distribution, correct?

9 A. Correct.

10 Q. And McKesson is engaged in the
11 distribution business, agreed?

12 A. We are.

13 Q. And that if they do not follow
14 the law as provided by the US code and the
15 Code of Federal Regulations, it has a
16 substantial and detrimental effect on the
17 health and general welfare of the American
18 people, agreed?

19 MS. HENN: Objection to form.

20 THE WITNESS: Could you restate
21 that question for me, please?

22 QUESTIONS BY MR. FARRELL:

23 Q. Yeah.

24 You agree with paragraph 2 --

25 A. Right.

1 Q. -- as McKesson's
2 representative, correct?

3 A. Correct.

4 Q. And what it says is that the
5 illegal, and one of the words is
6 distribution, of controlled substances has a
7 substantial and detrimental effect on the
8 health and general welfare of the American
9 people.

10 I'm asking you if McKesson
11 agrees and acknowledges with this finding by
12 Congress in 1970.

13 MS. HENN: Objection to form.

14 THE WITNESS: Yes, that the
15 illegal distribution can -- could
16 potentially have an impact on the
17 American --

18 QUESTIONS BY MR. FARRELL:

19 Q. Well, it doesn't say
20 "potential" in paragraph 2, does it?

21 A. It doesn't.

22 Q. It says that if you break the
23 law, it has a substantial and detrimental
24 effect on the health and general welfare of
25 the American people.

1 A. That's what it says, correct.

2 Q. Does McKesson agree and
3 acknowledge that finding?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. Now, if you flip to page 2,
8 this is section A 12 of the Controlled
9 Substances Act, and what it says is it places
10 drugs into one of several categories.

11 Is McKesson aware of the
12 scheduling of controlled substances?

13 A. We are.

14 Q. Okay. And what we're dealing
15 with in this litigation primarily today are
16 Schedule II drugs, correct?

17 A. Correct.

18 Q. Now, there was a period of time
19 when certain hydrocodone combination products
20 were Schedule III, but they've since been
21 reclassified as Schedule II, agreed?

22 A. Agreed.

23 Q. And McKesson picked up a book
24 of business when that happened on the HCPs,
25 agreed?

1 MS. HENN: Objection to form.

2 THE WITNESS: Can you rephrase
3 the book of business and the question
4 a little bit?

5 QUESTIONS BY MR. FARRELL:

6 Q. Yeah, that was a little too
7 country.

8 Is McKesson aware that its
9 sales of hydrocodone combination products
10 rose following the reclassification of those
11 opioids from Schedule III to Schedule II?

12 A. Yes.

13 Q. So nonetheless, when we're
14 talking about these products, I'm referencing
15 Schedule II for today.

16 A. Understood.

17 Q. So the Schedule II has a
18 definition, does it not, under the United
19 States Code?

20 A. It does.

21 Q. There's three aspects to it.
22 Do you see those three aspects?

23 A. I do.

24 Q. Could you read aspect A?

25 A. "The drug or other substance

1 has a high potential for abuse."

2 Q. McKesson is aware since 1970
3 that it was engaging in business of
4 distributing Schedule II controlled
5 substances which have a high potential for
6 abuse, agreed?

7 A. Agreed.

8 Q. And you agree that the opioids,
9 whether they're Schedule II or formerly
10 Schedule III, are drugs that have a high
11 potential for abuse?

12 A. Agree.

13 Q. McKesson knows this?

14 A. We do.

15 Q. And McKesson has known this
16 from the very beginning of their decision to
17 distribute controlled substances?

18 A. Agreed.

19 Q. Would you read paragraph B,
20 please?

21 A. "The drug or other substance
22 has a currently accepted medical use and
23 treatment in the United States or a currently
24 accept medical use with severe restrictions."

25 Q. Does McKesson agree and

1 acknowledge with this statement from
2 Congress?

3 MS. HENN: Objection to form.

4 THE WITNESS: Yes.

5 QUESTIONS BY MR. FARRELL:

6 Q. Now, read paragraph C, please.

7 A. "Abuse of a drug or other
8 substances may lead to severe psychological
9 or physical dependence."

10 Q. Does McKesson agree and
11 acknowledge this finding?

12 MS. HENN: Objection to form.

13 THE WITNESS: Yes.

14 QUESTIONS BY MR. FARRELL:

15 Q. So just to be clear, when we're
16 talking about controlled substances in this
17 litigation, we're talking about opiates and
18 opioids, agreed?

19 A. Agreed.

20 Q. And what these are, are these
21 are derivatives of opium in the form of a
22 pill, agreed?

23 MS. HENN: Objection to form.

24 THE WITNESS: It's multiple
25 formulations but, yes.

1 QUESTIONS BY MR. FARRELL:

2 Q. What we start with is we start
3 with the poppy plant, agreed?

4 MS. HENN: Objection to form.

5 THE WITNESS: Agreed.

6 QUESTIONS BY MR. FARRELL:

7 Q. Well -- and it's okay if -- I'm
8 just trying to figure out what McKesson
9 knows.

10 McKesson distributes pills from
11 a manufacturer to pharmacies. That's what
12 they do, yes?

13 A. Correct.

14 Q. The pills that you're
15 distributing, you're aware they originally
16 come from the poppy plant?

17 MS. HENN: Objection to form.

18 Outside the scope.

19 THE WITNESS: I'm not an expert
20 in the medical field and design, but I
21 understand that, yes.

22 QUESTIONS BY MR. FARRELL:

23 Q. Does McKesson acknowledge or
24 appreciate that what they're selling are
25 opium pills?

1 MS. HENN: Objection to form.

2 THE WITNESS: We understand

3 how -- what's in the pills, so, yes.

4 QUESTIONS BY MR. FARRELL:

5 Q. Okay. So the opium can be
6 manipulated by the manufacturers to be
7 opiate-like? Opiate-like, right? There's
8 opiates and opioid, or opiate-like, and
9 that's how you get hydrocodone and oxycodone
10 and all the different types of opium pills,
11 agreed?

12 A. Correct.

13 MS. HENN: Objection to form.

14 QUESTIONS BY MR. FARRELL:

15 Q. So when I say "opium pills,"
16 what I'm talking about is the big
17 classification of all of these pills derived
18 from the poppy plant.

19 Is that fair?

20 A. Understood.

21 Q. All right. And when we talk
22 about any of the individual pills, whether
23 it's hydrocodone or oxycodone, those all fall
24 within the opium pill umbrella, right?

25 MS. HENN: Objection to form.

1 THE WITNESS: Yes.

2 QUESTIONS BY MR. FARRELL:

3 Q. So when McKesson is
4 distributing opium pills, it knows and
5 understands that these pills have a high
6 potential for abuse?

7 A. We do.

8 Q. Now, they also -- you also --
9 McKesson understands that these pills do have
10 an accepted medical use in treatment, but
11 they have severe restrictions, agreed?

12 MS. HENN: Objection to form.

13 THE WITNESS: We understand the
14 language, yes.

15 QUESTIONS BY MR. FARRELL:

16 Q. You understand the language of
17 paragraph B?

18 A. Right.

19 Q. Opium pills have a place in
20 current medical practice?

21 A. Yes.

22 Q. But abusing opium pills may
23 lead to severe psychological and physical
24 dependence?

25 A. Correct.

1 Q. McKesson understands and
2 acknowledges this?

3 A. Yes.

4 Q. And that's why the unlawful
5 distribution of these opium pills, relating
6 back to page 1, has a substantial and
7 detrimental effect on the health and general
8 welfare of the American people.

9 Does McKesson acknowledge that?

10 MS. HENN: Objection to form.

11 THE WITNESS: Yes.

12 QUESTIONS BY MR. FARRELL:

13 Q. Now we're going to flip to
14 page 3, which is Section 821, rules and
15 regulations.

16 Will you please read this
17 aloud?

18 A. "The Attorney General is
19 authorized to promulgate rules and
20 regulations and to charge reasonable fees
21 relating to the registration and control of
22 the manufacture, distribution and dispensing
23 of controlled substances and to listed
24 chemicals."

25 Q. All right. Do you see the date

1 of this?

2 A. I do.

3 Q. What is the date?

4 A. October 27, 1970.

5 Q. Does McKesson acknowledge that
6 Congress gave the United States Attorney
7 General the authority to promulgate rules
8 regarding the distribution of opium pills?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. FARRELL:

12 Q. Now let's flip to the next
13 page. This is the -- this is where we'll be
14 spending most of our time today. This is
15 page 4, Section 823.

16 This is from the United States
17 Code, and it includes, as you'll see down in
18 paragraph 1, what Congress has said is
19 McKesson's duty. I'd like you to first read
20 that to yourself.

21 A. I've read it.

22 Q. All right. Does McKesson
23 acknowledge that it has a duty to maintain
24 effective control against diversion of opium
25 pills as mandated by Congress?

1 MS. HENN: Objection to the
2 form.

3 THE WITNESS: We do.

4 (McKesson-Hartle Exhibit 6
5 marked for identification.)

6 QUESTIONS BY MR. FARRELL:

7 Q. Now this is a much bigger
8 document, but I promise we won't go through
9 every page.

10 This is going to be marked as
11 Exhibit 6 in the bottom right-hand corner,
12 and in the top right-hand corner it's MCK
13 30 (b) (6) _6.

14 For our fans following on the
15 telephone, this is the Congressional history
16 that can be found at 91-1444. It is Public
17 Law 91-513.

18 Do you remember when we were
19 looking at the United States Code and it
20 referenced Public Law 91-513 from Exhibit 5?

21 A. Yes.

22 Q. This is that document, I'll
23 represent to you.

24 A. Okay.

25 Q. And what this is, is this is

1 the Congressional history of all those codes
2 that we just walked through. And I'm not
3 going to ask you to read the entire document
4 because I've highlighted certain sections for
5 you.

6 The first thing I'd like you to
7 do is I'd like for you to turn to Bates stamp
8 page 5. And while you read the document to
9 yourself, I'm going to read it out loud to
10 save you some time.

11 A. Okay.

12 Q. Under Title 2, Control and
13 Enforcement, it states, "The bill provides
14 for control by the Justice Department of
15 problems related to drug abuse through
16 registration of manufacturers, wholesalers,
17 retailers and all others in the legitimate
18 distribution chain and makes transactions
19 outside the legitimate distribution chain
20 illegal."

21 Does McKesson acknowledge this
22 finding from Congress?

23 MS. HENN: Objection to form.

24 THE WITNESS: Yes.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. I'm going to have you to turn
3 to Bates stamp page 8. And again, these are
4 my highlights. Congress didn't highlight
5 this in 1970; Paul Junior did. So while you
6 read it, I'm going to read it out loud.

7 "The bill was designed to
8 improve the administration and regulation of
9 the manufacturing, distribution and
10 dispensing of controlled substances by
11 providing for a closed system of drug
12 distribution for legitimate handlers of such
13 drugs. Such a closed system should
14 significantly reduce the widespread diversion
15 of these drugs out of the legitimate channels
16 into the illicit market, while at the same
17 time providing the legitimate drug industry
18 with a unified approach to narcotic and
19 dangerous drug control."

20 Does McKesson acknowledge the
21 truth of this finding by Congress?

22 MS. HENN: Objection to form.

23 THE WITNESS: Yes.

24 QUESTIONS BY MR. FARRELL:

25 Q. So let's just talk about this

1 for a minute.

2 McKesson understands that in
3 1970 Congress created a closed system,
4 agreed?

5 A. Agree.

6 Q. What a closed system means is
7 that laissez-faire economics don't apply,
8 agreed?

9 MS. HENN: Objection to form.

10 THE WITNESS: Have to refresh
11 my memory on laissez-faire economics.

12 QUESTIONS BY MR. FARRELL:

13 Q. It's just a fancy French word
14 for "hands off." The government is
15 intervening in the marketplace of the chain
16 of distribution for opium pills, agreed?

17 A. For controlled substances.

18 Q. Well, for all controlled
19 substances --

20 A. Correct.

21 Q. -- but today we're talking
22 about opium pills.

23 A. Understood.

24 Q. So the controlled substances
25 are in a chain of distribution that are

1 closed off to the rest of the marketplace.

2 McKesson acknowledges that?

3 MS. HENN: Objection to form.

4 THE WITNESS: Correct. It's a
5 closed system.

6 QUESTIONS BY MR. FARRELL:

7 Q. And in order to participate in
8 the closed system, you have to be one of the
9 select few that gets a registration
10 certificate from the DEA, agreed?

11 A. Agreed.

12 Q. And the reason Congress did
13 this was to reduce diversion. Does McKesson
14 acknowledge that?

15 MS. HENN: Objection to form.

16 THE WITNESS: Yes, I believe
17 that was the overall intent.

18 QUESTIONS BY MR. FARRELL:

19 Q. So it's creating rules to
20 prevent diversion to the best of their
21 ability. McKesson acknowledges that fact?

22 MS. HENN: Objection to form.

23 THE WITNESS: Yes.

24 QUESTIONS BY MR. FARRELL:

25 Q. Because if McKesson doesn't

1 follow the law, then diversion is likely.

2 You agree with that statement?

3 MS. HENN: Objection to form.

4 THE WITNESS: I don't know if

5 I'd say -- always characterize it as

6 likely all the time, but diversion can

7 happen.

8 QUESTIONS BY MR. FARRELL:

9 Q. Okay. Well, in this specific
10 provision, the United States Congress passed
11 a law to close the system of distribution and
12 enact laws to reduce the widespread diversion
13 of these drugs. You agree with that? That's
14 the purpose of this law?

15 MS. HENN: Objection to form.

16 THE WITNESS: Yes.

17 QUESTIONS BY MR. FARRELL:

18 Q. So the idea here is that -- to
19 close the system of distribution so that we
20 keep these dangerous opium pills inside the
21 legitimate market for medical care, agreed?

22 A. Agreed.

23 Q. And that's why we have these
24 laws enacted, so that we can do our best to
25 keep these drugs to the patients that need

1 them, agreed?

2 A. Agreed.

3 Q. And if you don't follow those
4 laws, then what happens is we have diversion
5 into the illicit market?

6 MS. HENN: Objection to form.

7 THE WITNESS: That can happen
8 if you don't follow those laws.

9 QUESTIONS BY MR. FARRELL:

10 Q. And that's the reason Congress
11 created the laws as stated in this finding?

12 MS. HENN: Objection to form.

13 THE WITNESS: Correct.

14 QUESTIONS BY MR. FARRELL:

15 Q. Next I'm going to have you flip
16 to page 11. And I just highlighted one
17 sentence in here. And it says, "The price
18 for participation in this traffic," which is
19 illicit drug trafficking, "should be
20 prohibitive."

21 Do you see that sentence?

22 A. I see that.

23 Q. Does McKesson acknowledge that?

24 MS. HENN: Objection to form.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Does McKesson acknowledge that
3 sentence to be true?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. It just makes sense, right? If
8 you're going to punish somebody and the
9 punishment isn't very severe, they're likely
10 to what?

11 MS. HENN: Objection to form.

12 THE WITNESS: To do it again.

13 QUESTIONS BY MR. FARRELL:

14 Q. Why?

15 A. There's no penalty or
16 accountability.

17 Q. And so by making the penalty
18 prohibitive, what does it do?

19 MS. HENN: Objection to form.

20 THE WITNESS: Could you ask the
21 question in a -- again? What --

22 QUESTIONS BY MR. FARRELL:

23 Q. If you make the penalty
24 prohibitive, then what happens?

25 MS. HENN: Objection to form.

1 MR. MONTMINY: Objection to
2 form. Calls for speculation. This is
3 Brandon Montminy for Henry Schein.

4 MS. HENN: And just to note for
5 everyone's knowledge, many of you know
6 this, but in the deposition protocol,
7 one defendant's objection counts for
8 all defendants, so there's no need to
9 do depositions {sic} if I'm done them.
10 But if on the phone you can't hear me,
11 I can try to speak up.

12 MR. FARRELL: So that means
13 you're not allowed to object to this
14 question because Henry Schein objected
15 to it.

16 MS. HENN: I already did, I'm
17 afraid to say. There are two.

18 QUESTIONS BY MR. FARRELL:

19 Q. So back to my original
20 question.

21 A. Yeah, could you put it in
22 simpler terms in --

23 Q. Yeah. Let me put it --

24 A. Just so I know.

25 Q. -- in other terms.

1 A. Yeah.

2 Q. Let's say that a speeding
3 ticket is a dollar. What would happen across
4 America if a speeding ticket was a dollar?

5 MS. HENN: Objection to form.

6 QUESTIONS BY MR. FARRELL:

7 Q. What would happen?

8 A. It wouldn't hold the same
9 weight or it wouldn't -- it may not deter
10 people from speeding.

11 Q. What if the speeding ticket was
12 a million dollars? What would that do?

13 MS. HENN: Objection to form.

14 THE WITNESS: I'm just
15 guessing, but likely people would not
16 speed.

17 QUESTIONS BY MR. FARRELL:

18 Q. Because the penalty would be
19 prohibitive, agreed?

20 A. Agreed.

21 Q. Like not to be cute, but
22 McKesson was fined \$13 million in 2008 and
23 then was fined again in 2017 \$150 million.

24 Do you think that the second
25 fine was intended to be more prohibitive than

1 the first fine?

2 MS. HENN: Objection to form.

3 THE WITNESS: I believe so.

4 QUESTIONS BY MR. FARRELL:

5 Q. All right. Now, let's go to

6 Bates stamp page 26.

7 And it says, "Titles 2 and 3 of
8 the bill deal with law enforcement aspect of
9 drug abuse and provide authority for the
10 Department of Justice to keep track of all
11 drugs subject to abuse, manufactured or
12 distributed in the United States, in order to
13 prevent diversion of these drugs from
14 legitimate channels of commerce."

15 Does McKesson acknowledge the
16 truth of that statement?

17 MS. HENN: Objection to form.

18 THE WITNESS: Yes.

19 QUESTIONS BY MR. FARRELL:

20 Q. This is just another reflection
21 of the US Code that we were reading that
22 Congress is giving the authority to the
23 Department of Justice to enact safety rules
24 in order to prevent the diversion of
25 controlled substances, including opium pills,

1 from legitimate channels into illegitimate
2 channels.

3 Does McKesson acknowledge that?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. Flip to page 27, the very next
8 page.

9 It says, "The legislation
10 provides that all persons engaged in a
11 legitimate distribution chain involving drugs
12 included in one of the schedules under the
13 bill must be registered with the Attorney
14 General."

15 So again, this is bringing full
16 circle the authority of the Attorney General
17 and the Department of Justice to promulgate
18 rules for those that wish to engage in the
19 closed system of distribution for controlled
20 substances, and McKesson acknowledges that?

21 MS. HENN: Objection to form.

22 THE WITNESS: Yes.

23 QUESTIONS BY MR. FARRELL:

24 Q. Now flip to page 34. And I
25 would like for you to please read that

1 provision that's highlighted aloud.

2 A. One second.

3 "The illegal importation,
4 manufacture, distribution and possession and
5 improper use of controlled substances have a
6 substantial detrimental effect on the
7 public's health and general welfare."

8 Q. Does McKesson acknowledge the
9 truth of that statement?

10 A. Yes.

11 Q. So if somebody in the chain of
12 distribution breaks the law, it has a
13 substantial detrimental effect on the public
14 health and general welfare, agreed?

15 MS. HENN: Objection to form.

16 THE WITNESS: It can.

17 QUESTIONS BY MR. FARRELL:

18 Q. Now go to page 44.

19 Again, this is another
20 reiteration that Congress authorizes the
21 Attorney General to "promulgate rules and
22 regulations and to charge reasonable fees
23 relating to the registration and control of
24 the manufacture, distribution and dispensing
25 of substances covered by the Act."

1 Does McKesson acknowledge the
2 authority of the Department of Justice and
3 the Attorney General to do so?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. Now flip to page 45, the very
8 next one. This is a little bit longer, so
9 I'm going to give you a chance to read it
10 real quick.

11 A. Okay. I've read it.

12 Q. So I'm going to read it aloud,
13 and I'm going to stop and ask you some
14 questions.

15 It's -- Section B of
16 Section 303 states that the Attorney General,
17 when issuing registrations, is going to
18 consider several factors, agreed?

19 A. Can you say that again? I was
20 looking at --

21 Q. Yeah, I was trying to summarize
22 the first four lines.

23 A. Yeah.

24 Q. Basically, what it really boils
25 down to is this is a reiteration of the

1 findings behind the statute that I showed you
2 regarding maintaining effective control.

3 So if you drop down to where it
4 says number 1 at the bottom of the page --
5 can you start reading there?

6 A. Yeah. Okay.

7 Q. Will you read that aloud,
8 please, starting with "maintenance of
9 effective controls"?

10 A. "Maintenance of effective
11 controls against diversion of particular
12 controlled substances into other than
13 legitimate medical, scientific and industrial
14 channels."

15 Q. All right. So again, what
16 we're talking about is the enactment of rules
17 to prevent diversion?

18 A. Correct.

19 Q. Last factor, factor 5, would
20 you read that?

21 A. "Such other factors as may be
22 relevant to and consistent with the public
23 health and safety."

24 Q. Does McKesson acknowledge that
25 Congress gave the Department of Justice the

1 authority to promulgate rules which govern
2 McKesson so that they maintain effective
3 controls against diversion, and to adopt any
4 other rule they want that may be relevant and
5 consistent with public health and safety?

6 MS. HENN: Objection to form.

7 THE WITNESS: Agree.

8 QUESTIONS BY MR. FARRELL:

9 Q. I just want to make sure that
10 we start off with the premise that the rules
11 we're about to go through aren't designed
12 to -- let me ask it in a better way.

13 The rules that we're about to
14 get into, McKesson acknowledges, are designed
15 with the primary purpose of preventing
16 diversion?

17 MS. HENN: Objection to form.

18 THE WITNESS: Correct.

19 QUESTIONS BY MR. FARRELL:

20 Q. Because diversion impacts
21 public health and safety, and McKesson
22 acknowledges that?

23 A. Yes.

24 MS. HENN: Objection to form.

25 (McKesson-Hartle Exhibit 7

1 marked for identification.)

2 QUESTIONS BY MR. FARRELL:

3 Q. The next exhibit we'll have is
4 marked as Exhibit 7, and correspondingly in
5 the top right-hand corner it's MCK
6 30(b)(6)_07-01, and it's just one page.

7 Once we get through this
8 section, we can take a break if you like.

9 All right. So what I'm going
10 to represent to you is that you will not find
11 this anywhere on the Internet either because
12 I made it. In the top left-hand corner is
13 the Department of Justice seal, and in the
14 top right-hand corner is the Drug Enforcement
15 Administration seal, and in the middle is
16 where you can trace down the rules that
17 govern McKesson.

18 Does McKesson acknowledge that
19 Title 21 CFR 1301.74 governs its conduct with
20 the distribution of controlled substances,
21 including opium pills?

22 MS. HENN: Objection to form.

23 THE WITNESS: Yes.

24 QUESTIONS BY MR. FARRELL:

25 Q. Part B is what we're going to

1 spend the rest of the day on.

2 Have you read part B before?

3 A. Yes.

4 Q. Does McKesson acknowledge that
5 part B governs its conduct?

6 MS. HENN: Objection to form.

7 THE WITNESS: Yes.

8 QUESTIONS BY MR. FARRELL:

9 Q. Does McKesson acknowledge that
10 for it to be lawfully carrying out its job of
11 dispensing controlled substances and opium
12 pills, it must follow paragraph B?

13 MS. HENN: Objection to form.

14 THE WITNESS: Yes.

15 QUESTIONS BY MR. FARRELL:

16 Q. And if McKesson does not follow
17 paragraph B, its conduct is illegal?

18 MS. HENN: Objection to form.

19 THE WITNESS: Yes.

20 QUESTIONS BY MR. FARRELL:

21 Q. To make it clear --

22 A. Yeah.

23 Q. -- if McKesson follows
24 paragraph B, its conduct is legal?

25 A. Correct.

1 Q. And if McKesson does not follow
2 paragraph B, its conduct is illegal?

3 MS. HENN: Objection to form.

4 THE WITNESS: Correct.

5 QUESTIONS BY MR. FARRELL:

6 Q. And so bringing full circle, we
7 understand that the purpose of this
8 regulation, one of them, is the prevention of
9 diversion, correct?

10 MS. HENN: Objection to form.

11 THE WITNESS: Correct.

12 QUESTIONS BY MR. FARRELL:

13 Q. So if you engage in illegal
14 conduct and violate paragraph B, the result
15 of that is diversion?

16 MS. HENN: Objection to form.

17 QUESTIONS BY MR. FARRELL:

18 Q. It's the whole reason this law
19 was enacted?

20 MS. HENN: Objection to form.

21 QUESTIONS BY MR. FARRELL:

22 Q. Does McKesson acknowledge that?

23 A. Could you ask the specific
24 question again?

25 MS. HENN: Objection to form.

1 QUESTIONS BY MR. FARRELL:

2 Q. Yeah, it got very complicated
3 because it was a compound question with
4 compound objections.

5 Does McKesson acknowledge that
6 paragraph B that we're looking at here is
7 intended to prevent diversion?

8 MS. HENN: Objection to form.

9 THE WITNESS: Yes.

10 QUESTIONS BY MR. FARRELL:

11 Q. And that if you follow -- if
12 McKesson abides by paragraph B, its conduct
13 is legal and diversion is prevented?

14 MS. HENN: Objection to form.

15 THE WITNESS: Agreed.

16 QUESTIONS BY MR. FARRELL:

17 Q. And if McKesson does not abide
18 by paragraph B, its conduct is illegal and
19 the result could be diversion?

20 MS. HENN: Objection to form.

21 THE WITNESS: Agree. The
22 result could be diversion.

23 QUESTIONS BY MR. FARRELL:

24 Q. Well, if McKesson is
25 distributing orders of unusual size, could it

1 be anything other than diversion?

2 MS. HENN: Objection to form.

3 THE WITNESS: It could.

4 QUESTIONS BY MR. FARRELL:

5 Q. All right. Give me some
6 examples.

7 MS. HENN: Objection to form.

8 THE WITNESS: Maybe the best --
9 a customer adds, you know -- their
10 business model changes or they add --
11 for example, a pharmacy may add
12 contracts with multiple long-term care
13 facilities and require that they now
14 dispense more for legitimate reasons,
15 so they could order more in that
16 context.

17 QUESTIONS BY MR. FARRELL:

18 Q. So what's the purpose of the
19 Department of Justice making McKesson follow
20 paragraph B?

21 MS. HENN: Objection to form.

22 THE WITNESS: Say that again?

23 What's the purpose of why we
24 follow that? To try to prevent
25 diversion.

1 MS. HENN: Mr. Farrell, we've
2 been going over an hour. Would this
3 be a good time for a five-minute
4 break?

5 MR. FARRELL: Let me close up
6 this thing and then we'll get there.

7 MS. HENN: All right.

8 MR. FARRELL: Is that okay?

9 MS. HENN: If it's all right
10 with the witness.

11 THE WITNESS: It's okay.

12 QUESTIONS BY MR. FARRELL:

13 Q. Okay. At the bottom of
14 Exhibit 7, do you see the numbers in the
15 brackets?

16 A. I do.

17 Q. 36 FR 7778. Do you know what
18 that means?

19 A. I don't know off the top of my
20 head.

21 Q. What about the letters and
22 numbers after that; do you know what that
23 means?

24 A. The date?

25 Q. Yes.

1 A. Of course I know the date.

2 Q. Yes.

3 Does McKesson acknowledge that
4 21 CFR Section 1301.74 has been in force and
5 effect since 1971?

6 MS. HENN: Objection to form.

7 THE WITNESS: Yes.

8 (McKesson-Hartle Exhibit 8
9 marked for identification.)

10 QUESTIONS BY MR. FARRELL:

11 Q. Just to make sure, I actually
12 pulled 36 Federal Register 778. I'm going to
13 have it marked as Exhibit 8.

14 And I'm not going to ask you to
15 read the whole thing because I was kind
16 enough to highlight for you Bates stamp
17 page 10.

18 And this is from 1971, and this
19 is the document in our United States Archives
20 which adopts the language that we just read
21 in 21 CFR 1301.74.

22 Does McKesson acknowledge this
23 is the law and it has been the law since
24 1971?

25 MS. HENN: Objection to form.

1 THE WITNESS: Yes.

2 QUESTIONS BY MR. FARRELL:

3 Q. The language that you just read
4 in paragraph B, is it the same language
5 that's in the CFR provision that I showed
6 you?

7 A. It's similar. Not word for
8 word.

9 Q. Okay. Is there any meaningful
10 difference?

11 A. No.

12 Q. You'll acknowledge that that is
13 the law today as reflected in the 2016
14 version that we're not going to have marked
15 but I'm going to show and ask for -- for --
16 you can just trust me on it if you'd like,
17 but you acknowledge that in 20 -- it's the
18 law today, the same?

19 MR. SUDDATH: Objection.

20 QUESTIONS BY MR. FARRELL:

21 Q. Well, and just to be sure, what
22 I did was I went and ordered the CFR from
23 every year between 1971 and this year, and I
24 looked at every single one of them just to
25 make sure that the law is, and always has

1 been, what it says in Masters Pharmaceutical,
2 including in 1996 when OxyContin was
3 launched.

4 So does McKesson acknowledge
5 that the CFR provision in McKesson {sic} is
6 and always has been the law governing
7 McKesson's conduct since 1971?

8 MS. HENN: Objection to form.

9 THE WITNESS: Yes.

10 QUESTIONS BY MR. FARRELL:

11 Q. I'm sorry. I misspoke.

12 So does McKesson acknowledge
13 that the CFR provision we cited in the
14 Masters Pharmaceutical case is and always has
15 been the law governing McKesson's conduct
16 since 1971?

17 MS. HENN: Objection to form.

18 THE WITNESS: Can I read what
19 was in the Masters case again?

20 (McKesson-Hartle Exhibit 9
21 marked for identification.)

22 QUESTIONS BY MR. FARRELL:

23 Q. Absolutely.

24 And at this point if you hand
25 it back to me, this'll be a good point for us

1 to mark it as Exhibit 9.

2 A. So your question again?

3 Q. Yeah.

4 Does McKesson acknowledge that
5 the CFR provision cited in Masters
6 Pharmaceutical case, which is 21 CFR
7 1301.74 B, is and always has been the law
8 governing McKesson's conduct since 1971?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes.

11 MR. FARRELL: And

12 unfortunately, I'm not going to be
13 able to get all of my pretty-colored
14 books on the videotape.

15 Let the record reflect that the
16 office of the Federal Register has a
17 kaleidoscope of colors that it uses
18 for the front cover of all of its CFR
19 booklets.

20 And with that, we'll take our
21 first break.

22 VIDEOGRAPHER: The time is
23 10:23 a.m. We're going off the
24 record.

25 (Off the record at 10:23 a.m.)

1 VIDEOGRAPHER: The time is
2 10:40 a.m., and we're back on the
3 record.

4 QUESTIONS BY MR. FARRELL:

5 Q. I forgot to warn you before the
6 break, but during the break, did you have any
7 meaningful conversations with your counsel
8 about your testimony?

9 MS. HENN: Objection to form.

10 THE WITNESS: No.

11 QUESTIONS BY MR. FARRELL:

12 Q. Did you talk about your
13 testimony at all?

14 MS. HENN: Objection to form.

15 THE WITNESS: Not really my
16 testimony, just --

17 MS. HENN: And I'm just going
18 to instruct the witness not to divulge
19 what we talked about. I don't think
20 that's an appropriate question. I
21 think you got the answer you were
22 looking for.

23 MR. FARRELL: I think I almost
24 got the answer I'm looking for.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Did you talk to your lawyer
3 about the substance of your testimony during
4 the break?

5 MS. HENN: And I'll instruct
6 the witness not to divulge particulars
7 of what we talked about.

8 But you may answer that
9 question yes or no.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. FARRELL:

12 Q. Okay. What did you talk about?

13 MS. HENN: I'm going to
14 instruct the witness not to answer
15 that question as calling for
16 privileged information.

17 MR. FARRELL: Right. But the
18 deposition protocol and the rules
19 governing this litigation state that
20 counsel is not allowed to discuss with
21 the witness the substance of any
22 testimony during a break.

23 And so his answer in the
24 affirmative indicates that that
25 occurred, and so I should be allowed

1 to inquire about that.

2 MS. HENN: All right. Well,
3 let's take a break, and we will
4 discuss outside and have a privileged
5 conversation, and we'll see if there's
6 any answer that he can provide without
7 divulging privileged information that
8 I don't believe you're entitled to.

9 MR. FARRELL: Okay. So you're
10 going to have a second conversation
11 during a break about the substance of
12 his testimony?

13 MS. HENN: No, Counsel, that's
14 not what's going to happen. But I'd
15 like to take a break so that I can
16 talk to my witness about answering the
17 question inquiring into discussions
18 with counsel.

19 MR. FARRELL: Okay.

20 MS. HENN: Thank you.

21 VIDEOGRAPHER: The time is
22 10:42 a.m. We're going off the
23 record.

24 (Off the record at 10:42 a.m.)

25 VIDEOGRAPHER: The time is

1 10:46 a.m. We're back on the record.

2 MR. FARRELL: So what did you
3 find out?

4 MS. HENN: Counsel, just to
5 protect the privilege, I'm just going
6 to instruct the witness that when he
7 answered yes to your question and
8 indicated affirmatively that we'd
9 talked about the substance of his
10 testimony, I'm going to ask him to
11 answer your question and tell you what
12 he deemed to be the substance of his
13 testimony, but I'm also going to ask
14 him not to repeat what I -- my
15 response.

16 So let's do that, and we can
17 discuss if you're still concerned.

18 Okay?

19 MR. FARRELL: Not really. Let
20 me make --

21 MS. HENN: Go ahead and ask
22 your question.

23 MR. FARRELL: Let me make it
24 even easier.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Did anything your lawyer say to
3 you cause you to change or withdraw anything
4 you said this morning?

5 A. Absolutely not.

6 Q. Did anything your lawyer told
7 you during the break impact or affect your
8 testimony the rest of the day?

9 A. No.

10 Q. That's fair enough.

11 A. Okay.

12 Q. Aside from the statutory duty
13 and the duty that's in the regulation, does
14 McKesson acknowledge that it has a general
15 duty to protect the public against diversion
16 of controlled substances and opium pills?

17 MS. HENN: Objection to form.

18 THE WITNESS: Could you restate
19 that, please?

20 QUESTIONS BY MR. FARRELL:

21 Q. Does McKesson acknowledge that
22 it has a general duty to protect the public
23 against diversion of controlled substances
24 and opium pills into the illicit market?

25 MS. HENN: Objection to form.

1 THE WITNESS: Yes, a general
2 duty as part of our responsibility,
3 regulatory responsibilities and
4 general responsibilities.

5 QUESTIONS BY MR. FARRELL:

6 Q. So let's be careful. I want
7 to -- the wording sometimes makes a
8 difference.

9 A. Okay.

10 Q. Aside from the statute from the
11 United States Code and the regulations
12 promulgated by the Department of Justice,
13 does McKesson acknowledge that it owes a duty
14 to the general public to prevent diversion of
15 controlled substances and opium pills into
16 the illicit market?

17 MS. HENN: Objection to form.

18 THE WITNESS: We do feel
19 strongly about playing a role in
20 preventing diversion.

21 QUESTIONS BY MR. FARRELL:

22 Q. So the answer needs to be
23 "yes," "no," or "I don't know."

24 A. Yes.

25 MS. HENN: Objection to form.

1 QUESTIONS BY MR. FARRELL:

2 Q. So your answer is, yes, aside
3 from the statutory and regulatory provisions,
4 McKesson acknowledges that it owes a duty to
5 the general public to prevent diversion of
6 controlled substances and opium pills into
7 the illicit market?

8 MS. HENN: Objection to form.

9 THE WITNESS: Yes.

10 (McKesson-Hartle Exhibit 10
11 marked for identification.)

12 QUESTIONS BY MR. FARRELL:

13 Q. I'm going to mark what is going
14 to be Deposition Exhibit 10. The top
15 right-hand corner is going to be 1910_01_11.
16 And I'll show it to you, to counsel, two
17 extra copies for my new best friends. And
18 I'm going to give you a little introduction
19 to this document before you start flipping
20 through it.

21 The front is the HathiTrust.

22 Are you familiar with the HathiTrust?

23 A. I am not.

24 Q. I wasn't either until this
25 litigation.

1 The HathiTrust is an
2 organization, nonprofit organization, that
3 collects public documents and puts them
4 online.

5 A. Okay.

6 Q. This one is from December 1910
7 and January 1911. That's a long time ago,
8 isn't it?

9 A. That would be a long time ago.

10 Q. 100 years ago.

11 This predates 1970s US Code and
12 the 1971 Code of Federal Regulations, agreed?

13 A. Clearly, yes.

14 Q. This is a hearing on -- take a
15 guess.

16 A. Opioids.

17 Q. In particular, opium. And it
18 was about the importation of opium into
19 America back in the early turn of the
20 century.

21 McKesson was around back then,
22 wasn't they?

23 A. McKesson was -- has been
24 around.

25 Q. They were around back during

1 this time frame, agreed?

2 A. Agreed.

3 Q. So why do you think I'm
4 bringing this up?

5 MS. HENN: Objection to form.

6 THE WITNESS: I don't want to
7 speculate why I think you're bringing
8 it up.

9 QUESTIONS BY MR. FARRELL:

10 Q. Guess who testified during this
11 hearing.

12 MS. HENN: Objection to form.

13 THE WITNESS: Don't know.

14 QUESTIONS BY MR. FARRELL:

15 Q. Take a wild guess.

16 MS. HENN: Same objection.

17 THE WITNESS: I don't have
18 honestly a guess.

19 QUESTIONS BY MR. FARRELL:

20 Q. Mr. McKesson.

21 So what I'm going to have you
22 flip to, is I'm going to have you flip to
23 page 72.

24 Now, without going through the
25 entire boring history of commerce clause, the

1 United States Constitution, I'm just going to
2 give you a broad statement.

3 What this is, is this is
4 America's first attempt to regulate opium
5 trafficking in America. And back then there
6 was a big debate on whether or not this was
7 something the federal government can do or
8 it's something that should be left to the
9 states.

10 So what the federal government
11 decided to do was pass the Harrison Narcotic
12 Act. What that did was it basically taxed
13 opium as a way for the federal government to
14 control, and this is a debate about the
15 taxation on the importation of opium.

16 A. Okay.

17 Q. Page 72 is the beginning of the
18 testimony of Mr. McKesson from McKesson &
19 Robbins, which is the predecessor and when
20 McKesson Corporation was in the private hands
21 of the McKesson family.

22 You acknowledge that?

23 A. Correct.

24 Q. I'm going to have you flip to
25 page 75. And if you look near the top, one

1 of congressmen asks Mr. McKesson about
2 whether or not he supports this bill. And
3 I'm going to give you an opportunity to read
4 to yourself the provision before I ask you to
5 read it aloud.

6 A. Which specific part do you want
7 me to start and end at?

8 Q. The first time it says
9 "Mr. McKesson."

10 A. Okay.

11 Q. He's asked about whether or not
12 he's in favor of the bill.

13 Do you see that?

14 A. I do.

15 Q. And his answer is, "Yes, very
16 much in favor of the bill."

17 Do you see that provision?

18 A. I do.

19 Q. Now, would you please begin
20 reading the next sentence?

21 A. Out loud?

22 Q. Please.

23 A. "Our firm was founded in 1832,
24 and we have been ever since against the sale
25 of habit-forming drugs and all that kind of

1 thing. Orders which have come to us from
2 suspicious people we have put in the hands of
3 the proper authorities for tracing and
4 prosecution, if necessary."

5 Q. So you agree with me that even
6 before the enactment of the Controlled
7 Substances Act and the Code of Federal
8 Regulations, which we discussed earlier this
9 morning, is that McKesson, Mr. McKesson
10 hissself, was acknowledging that if they have
11 suspicious people, they're going to turn it
12 over to law enforcement for prosecution,
13 agreed?

14 MS. HENN: Objection to form.

15 THE WITNESS: Agreed based on
16 what I'm reading in this document.

17 QUESTIONS BY MR. FARRELL:

18 Q. And this duty predates the US
19 Code and predates the Code of Federal
20 Regulations, agreed?

21 MS. HENN: Objection to form.

22 THE WITNESS: Agreed.

23 QUESTIONS BY MR. FARRELL:

24 Q. So would you agree, would
25 McKesson agree, that it owes a common law

1 duty to the American public to prevent
2 diversion if it's engaged in the distribution
3 of controlled substances, including opium
4 pills, to prevent their diversion into the
5 illicit market?

6 MS. HENN: Objection to form.

7 THE WITNESS: Can you ask it in
8 a shorter version there?

9 QUESTIONS BY MR. FARRELL:

10 Q. Probably not.

11 Does McKesson acknowledge it
12 owes a common law duty to the American public
13 to prevent the diversion of controlled
14 substances, including opium pills, into the
15 illicit market?

16 MS. HENN: Objection to form.

17 THE WITNESS: Yes.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, the first part of the
20 sentence, it kind of grabbed my attention.
21 It says, "McKesson has ever since been
22 against the sale of habit-forming drugs."
23 And this was in 1910.

24 Do you see that?

25 A. I see that.

1 Q. When did McKesson begin the
2 business of selling opium pills?

3 MS. HENN: Objection to form.

4 THE WITNESS: I do not know.

5 QUESTIONS BY MR. FARRELL:

6 Q. At some point in time
7 McKesson's philosophy changed, and it went
8 from not selling habit-forming drugs to now
9 selling habit-forming drugs, agreed?

10 MS. HENN: Objection to form.

11 THE WITNESS: Agreed.

12 QUESTIONS BY MR. FARRELL:

13 Q. Has McKesson considered, given
14 the presence of the opioid epidemic in
15 America, perhaps returning to the stance of
16 1910 of its founder, Mr. McKesson?

17 MS. HENN: Objection to form.

18 THE WITNESS: Again, I'm not
19 aware of that. Can't answer that
20 question.

21 QUESTIONS BY MR. FARRELL:

22 Q. Well, you could choose not to
23 sell opium pills anymore in America, could
24 you not?

25 A. You could choose to.

1 Q. But McKesson chooses to
2 continue to sell opium pills in America,
3 despite the fact that we have an opiate pill
4 epidemic?

5 MS. HENN: Objection to form.

6 THE WITNESS: We do.

7 (McKesson-Hartle Exhibit 11
8 marked for identification.)

9 QUESTIONS BY MR. FARRELL:

10 Q. The next exhibit we're going to
11 have marked as Exhibit 11. In the top
12 right-hand corner, this is 1996, 04, 01.

13 We've acknowledged that in
14 1971, Department of Justice adopted CFR
15 provision 1301.74, agreed?

16 A. Agree.

17 Q. And then we went through and
18 it's the law today, agreed?

19 A. Agreed.

20 Q. It's the law that was
21 referenced in the Masters Pharmaceutical
22 case, agreed?

23 A. Agreed.

24 Q. And it hadn't changed through
25 all those colorful books I showed you,

1 agreed?

2 MS. HENN: Objection to form.

3 THE WITNESS: Agreed.

4 QUESTIONS BY MR. FARRELL:

5 Q. This is a specific year.

6 Can you tell me what year it
7 is?

8 A. 1996.

9 Q. Why do you think I picked this
10 year?

11 MS. HENN: Objection to form.

12 THE WITNESS: I'm not -- I'm
13 not sure.

14 QUESTIONS BY MR. FARRELL:

15 Q. What happened in 1996 that
16 changed the face of opioid sales in America?

17 MS. HENN: Objection to form.

18 THE WITNESS: I'm not
19 100 percent sure. I'd be speculating.

20 QUESTIONS BY MR. FARRELL:

21 Q. Well, McKesson's in the
22 business of selling opium pills, correct?

23 MS. HENN: Objection to form.

24 THE WITNESS: As part of
25 controlled substances, yes.

1 QUESTIONS BY MR. FARRELL:

2 Q. And in 1996, business began
3 hopping, agreed?

4 MS. HENN: Objection to form.

5 THE WITNESS: I'm not sure. I
6 don't -- I don't -- I can't answer
7 that. I don't know what the business
8 was before or --

9 QUESTIONS BY MR. FARRELL:

10 Q. That's fair enough.

11 A. Yeah.

12 Q. In 1996, I'll represent to you,
13 OxyContin was launched. So all I'm trying to
14 establish on page 2 of the exhibit is that
15 under 1301.74 B, the same law was in place
16 when OxyContin was launched.

17 MS. HENN: Objection to form.

18 QUESTIONS BY MR. FARRELL:

19 Q. Agreed?

20 A. Understood.

21 Q. Not understood --

22 A. Agreed.

23 Q. Yeah.

24 A. Sorry.

25 Q. This might take a little bit

1 longer because, as you can see, this next
2 exhibit is a little bit thicker.

3 (McKesson-Hartle Exhibit 12
4 marked for identification.)

5 QUESTIONS BY MR. FARRELL:

6 Q. We're going to have it marked
7 as Exhibit 12.

8 MR. FARRELL: So for the
9 record, the top right-hand corner is
10 2000_07. The bottom right-hand
11 corner, for all the fans listening on
12 the telephone, is an actual Bates
13 stamp number. And while this was
14 previously produced to some Attorney
15 Generals, it was also produced in the
16 MDL, so I have an MDL number. And
17 it's MCKMDL00337660.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, does McKesson recognize
20 this document?

21 A. I do.

22 Q. And has McKesson reviewed this
23 document in preparation for today's
24 testimony?

25 MS. HENN: Objection to form.

1 THE WITNESS: I have.

2 QUESTIONS BY MR. FARRELL:

3 Q. What is this document?

4 A. This is the operational manual
5 for how controlled substances are handled
6 within McKesson.

7 Q. And what was the date of
8 enactment?

9 A. I believe July of 2000.

10 Q. Okay. Prior to July of 2000,
11 what was the policy at McKesson regarding the
12 distribution of controlled substances?

13 MS. HENN: Objection to form.
14 Outside the scope.

15 THE WITNESS: I can't speak to
16 that.

17 QUESTIONS BY MR. FARRELL:

18 Q. To your understanding and
19 belief sitting here today as the
20 representative of McKesson, is this document
21 the earliest version of the controlled
22 substance monitoring program adopted by the
23 company?

24 MS. HENN: Same objections.

25 THE WITNESS: I can't say for

1 certain this is the only one I know
2 of.

3 QUESTIONS BY MR. FARRELL:

4 Q. I'm not asking you to --

5 A. Yeah.

6 Q. -- foreclose the existence of
7 anything else.

8 A. Right.

9 Q. Sitting here today as the
10 McKesson designee for the 30(b)(6)
11 deposition, what we're showing you here as
12 Exhibit 12 is the earliest version you're
13 aware of for McKesson's controlled substance
14 monitoring program?

15 MS. HENN: Objection to form.
16 Outside the scope.

17 THE WITNESS: Correct, that I'm
18 aware of.

19 QUESTIONS BY MR. FARRELL:

20 Q. So when I asked you in the
21 30(b)(6) deposition notice to testify
22 regarding all past and present suspicious
23 order policies and procedures, this, to the
24 best of your knowledge, is the first time
25 McKesson has adopted a policy and procedure

1 in compliance with the United States Code
2 that we discussed this morning and the Code
3 of Federal Regulations we discussed this
4 morning.

5 MS. HENN: Objection.

6 QUESTIONS BY MR. FARRELL:

7 Q. Agreed?

8 MS. HENN: Objection to form.
9 Outside the scope.

10 THE WITNESS: I can't -- I
11 can't speak to things that may have
12 happened prior to this date that maybe
13 weren't put in this format and written
14 down on paper, but on paper, this is
15 the one that I recognize.

16 QUESTIONS BY MR. FARRELL:

17 Q. I need to be a little more
18 clear about it.

19 Are you aware of any other
20 piece of paper in the annals of McKesson
21 Corporation that talk about the duty to
22 comply with the United States Code and the
23 Code of Federal Regulations regarding the
24 distribution of controlled substances?

25 MS. HENN: Objection to form.

1 Outside the scope.

2 MR. FARRELL: Counsel, it seems
3 to be directly within point A of the
4 30(b)(6) notice.

5 MS. HENN: We can disagree
6 about that.

7 MR. FARRELL: Well, I'll read
8 it out loud.

9 "Your past, present, suspicious
10 orders monitoring system, SOMS
11 program, policies and procedures."

12 MS. HENN: And I'll just object
13 again to the question as outside the
14 scope.

15 And to respond to you,
16 Mr. Farrell, the -- Special Master
17 Cohen has made rulings about the
18 proper time frame for discovery, and
19 so our position is that asking about
20 the annals of McKesson Corporation is
21 outside the scope.

22 But he can answer your question
23 if you want to state it again.

24 MR. FARRELL: That's a fair
25 point.

1 QUESTIONS BY MR. FARRELL:

2 Q. So sitting here today as
3 McKesson Corporation, you're unaware of any
4 piece of paper that predates Exhibit 12, but
5 there may be; is that fair?

6 MS. HENN: Objection to form.
7 Outside the scope.

8 THE WITNESS: That's fair. I'm
9 unaware, but I -- there may be.

10 QUESTIONS BY MR. FARRELL:

11 Q. So you don't have any basis in
12 fact, as the McKesson designee today, to
13 discuss what the policies and procedures were
14 for McKesson related to the distribution of
15 controlled substances and opium pills between
16 '96 when OxyContin was launched and the
17 adoption of Section 55, Exhibit 12, in July
18 of 2000; is that a fair statement?

19 MS. HENN: Objection to form.
20 Outside the scope.

21 THE WITNESS: That's a fair
22 statement.

23 QUESTIONS BY MR. FARRELL:

24 Q. So what we're looking at is
25 Exhibit 12.

1 Can you tell me the name of
2 this document?

3 A. It's the drug operation manual.
4 It's been -- but it's known as Section 55,
5 often within McKesson, which is also in the
6 title.

7 Q. And as of July 2000, is there
8 any other document related to the
9 distribution of controlled substances in the
10 prevention of diversion other than
11 Section 55?

12 MS. HENN: Objection to form.
13 Outside the scope.

14 THE WITNESS: I'm not following
15 your question 100 percent.

16 QUESTIONS BY MR. FARRELL:

17 Q. Okay. Are you a sports fan?

18 A. I am.

19 Q. What's your favorite sport?

20 A. Wrestling.

21 Q. Very good.

22 How many rules are in the
23 wrestling rule book?

24 A. I couldn't even guess. I don't
25 know.

1 Q. But the wrestling rule book is
2 intended to be comprehensive, agreed?

3 A. I would agree.

4 Q. If you're a referee, how many
5 different books do you have to read to know
6 the rules of wrestling on the mat?

7 A. Should be one.

8 Q. Is that the same for this
9 document, Exhibit 12? Is this intended to be
10 the rule book for the distribution of
11 controlled substances for McKesson
12 Corporation?

13 MS. HENN: Objection to form.

14 THE WITNESS: For which time
15 frame?

16 QUESTIONS BY MR. FARRELL:

17 Q. July 2000 until -- and I'll
18 give you a hint -- the 2007 Lifestyles
19 program.

20 MS. HENN: Objection to form.

21 Outside the scope.

22 THE WITNESS: I'm not aware of
23 another one.

24 QUESTIONS BY MR. FARRELL:

25 Q. All right. On page 1, the very

1 first paragraph under general, I'd like you
2 to take a minute and read that. And I've
3 never liked just having you -- or just spring
4 that on you. I want you to kind of digest
5 it.

6 A. Just the first paragraph?

7 Q. Just the first paragraph.

8 A. I read it.

9 Q. All right. Now, I'm going to
10 have you read aloud just the first sentence,
11 and I'm going to compliment you that all of
12 your testimony this morning is spot-on with
13 that very first sentence. I couldn't trip
14 you up at all. So I'd like you to read the
15 first sentence aloud, please.

16 A. "The aim of the Controlled
17 Substance Act is to prevent diversion of
18 abusable substances into illicit traffic
19 while ensuring their availability for
20 legitimate medical purposes."

21 Q. So again, we're back to this
22 theme that the Controlled Substances Act was
23 intended to prevent diversion, agreed?

24 MS. HENN: Objection to form.

25 THE WITNESS: Agreed.

1 QUESTIONS BY MR. FARRELL:

2 Q. And in July of 2000, McKesson
3 adopted a policy to accomplish that
4 objective; is that fair?

5 MS. HENN: Objection to form.

6 THE WITNESS: They formalized a
7 policy within -- within this document.

8 QUESTIONS BY MR. FARRELL:

9 Q. That's the purpose of this
10 document?

11 A. Right.

12 Q. Who wrote this document?

13 A. I'm not 100 percent sure
14 exactly who wrote it within the McKesson
15 team, but a combination of people.

16 Q. Whose document is this?

17 MS. HENN: Objection to form.

18 THE WITNESS: McKesson's.

19 QUESTIONS BY MR. FARRELL:

20 Q. Is this a document that is kept
21 in the regular course of business for
22 McKesson?

23 MS. HENN: Objection to form.

24 THE WITNESS: It is.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Is this a true and authentic
3 copy of Section 55 of McKesson's policy?

4 MS. HENN: Objection to form.

5 THE WITNESS: I know it's
6 undergoing some revisions.

7 QUESTIONS BY MR. FARRELL:

8 Q. Well, not as of July 2000.

9 A. Oh, can you say it again?

10 Q. Yeah. This document, sitting
11 here today --

12 A. Right.

13 Q. -- is this a document that as
14 of July of the year 2000 was a document
15 created by McKesson in the course of
16 conducting its regular business activities?

17 MS. HENN: Objection to form.

18 THE WITNESS: Yes.

19 QUESTIONS BY MR. FARRELL:

20 Q. So if I hold this document up
21 in a courtroom I can say this is McKesson's
22 drug operations manual related to the
23 distribution of controlled substances that
24 was adopted in July of 2000?

25 A. Yes.

1 Q. Now, the second sentence,
2 starting with "The Drug Enforcement
3 Administration," can you read that sentence
4 aloud?

5 A. Sure.

6 "The Drug Enforcement
7 Administration strictly interprets the law
8 and regulations and has imposed significant
9 fines for technical errors in completing
10 forms and keeping records."

11 Q. So the DEA, even as of July
12 2000, took the Controlled Substances Act very
13 seriously, and McKesson acknowledges that,
14 agreed?

15 MS. HENN: Objection to form.

16 THE WITNESS: Correct, or
17 agreed.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, would you read the last
20 sentence?

21 A. "It's extremely important that
22 McKesson employees comply fully with the
23 regulations and the following guidelines."

24 Q. How important is it?

25 MS. HENN: Objection to form.

1 THE WITNESS: To recite, it
2 says "extremely important."

3 QUESTIONS BY MR. FARRELL:

4 Q. And why?

5 A. To prevent the diversion of
6 controlled substances.

7 Q. I'm going to have you now flip
8 to page 27. I'll give you a minute to kind
9 of --

10 A. The whole --

11 Q. Yeah, you can just glance it.
12 We're going to walk through it a little bit.

13 We can start with the heading,
14 paragraph A. What's paragraph A, the very
15 top of the page? What's it say?

16 Oh, wait a minute, I'm sorry.

17 A. Am I on the right page here?

18 Q. I was on the wrong page.

19 Page 27, paragraph G. Will you
20 read the first paragraph?

21 A. The heading or the entire --
22 the first --

23 Q. You can read the heading if
24 you'd like.

25 A. "DEA continuing education"?

1 That piece?

2 Q. Yes. And then there's another
3 word underneath that.

4 A. "Documentation."

5 Q. What does documentation mean?

6 A. Is you document something on
7 paper.

8 Q. Okay. And will you read the
9 sentence, please?

10 A. "All compliance training
11 sessions, formal and informal, held in your
12 distribution center must be logged and
13 documented on the DEA continuing education
14 report."

15 Q. What does that mean?

16 MS. HENN: Objection to form.

17 Outside the scope.

18 THE WITNESS: It means you
19 should document the training that's
20 conducted related to compliance.

21 QUESTIONS BY MR. FARRELL:

22 Q. Okay. Is there a DEA
23 continuing education report that you're aware
24 of?

25 A. Not that I'm aware of.

1 Q. You haven't seen any such
2 thing?

3 A. I don't believe I have, no.

4 Q. But if we ask for it, it's
5 something McKesson could theoretically go and
6 look for?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 THE WITNESS: Theoretically.

10 QUESTIONS BY MR. FARRELL:

11 Q. All right. Because the policy
12 seems to indicate you guys have this
13 documentation of compliance training
14 sessions. And I'll admit to you I haven't
15 seen any, so I was wondering if you'd seen
16 any.

17 A. I have not.

18 Q. Now, if you flip to the next
19 page, page 28, at the top it's paragraph A.
20 And will you read the title of paragraph A?

21 A. "Detecting suspicious orders."

22 Q. And what's it say over there on
23 the right, that number?

24 A. 1301.74.

25 Q. What do you think that is?

1 A. That's from the CFR.

2 Q. All right. And then under
3 paragraph 1, you see where it says, "DEA
4 regulation defines suspicious orders as
5 follows"?

6 A. I do.

7 Q. Will you read what's in the
8 quotation marks?

9 A. "Suspicious orders include
10 orders of unusual size, orders deviating
11 substantially from a normal pattern and
12 orders of unusual frequency."

13 Q. Now, if you go down to the
14 paragraph that starts "recent cases," do you
15 see that?

16 Will you read the first
17 sentence?

18 A. "Recent cases indicate that DEA
19 will seek large penalties from distributors
20 who fail to comply with this regulation."

21 Q. What do you interpret that to
22 mean?

23 MS. HENN: Objection. Outside
24 the scope.

25 THE WITNESS: Exactly what it

1 says.

2 QUESTIONS BY MR. FARRELL:

3 Q. You got to follow the law?

4 MS. HENN: Objection to form.

5 THE WITNESS: Right.

6 QUESTIONS BY MR. FARRELL:

7 Q. And if McKesson doesn't follow
8 the law, that makes its conduct unlawful?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. FARRELL:

12 Q. And McKesson has acknowledged
13 that as early as July of 2000?

14 MS. HENN: Objection to form.

15 Outside the scope.

16 THE WITNESS: In this document,
17 yes.

18 QUESTIONS BY MR. FARRELL:

19 Q. The next sentence says, "It is
20 left to the distributor to define what
21 constitutes an unusual or suspicious order."

22 Do you see that sentence?

23 A. I do.

24 Q. And to comply with this,
25 McKesson has adopted this policy; is that

1 fair?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 THE WITNESS: Yes.

5 QUESTIONS BY MR. FARRELL:

6 Q. Now, in here it says at the
7 very bottom of the -- it says, "The following
8 reports are produced: The Drohan data
9 reports."

10 Do you see that, the Drohan
11 Data Center reports?

12 A. I do see that.

13 Q. What are the Drohan Data Center
14 reports?

15 MS. HENN: Objection. Outside
16 the scope.

17 THE WITNESS: They're
18 multiple -- that's the -- they're
19 multiple reports that are generated
20 from the system.

21 QUESTIONS BY MR. FARRELL:

22 Q. Okay. Is that system still in
23 place, to your knowledge?

24 A. Not to my knowledge.

25 Q. Who would I ask if I was going

1 to ask questions about the reports in the
2 Drohan Data Center?

3 MS. HENN: Objection to form.

4 THE WITNESS: Somebody in our
5 IT department.

6 QUESTIONS BY MR. FARRELL:

7 Q. Okay. Flip to the next page,
8 page 29. Little A talks about controlled
9 substances sales reports.

10 Do you see that?

11 A. I do.

12 Q. That's a document that should
13 exist as of July of 2000, agreed?

14 MS. HENN: Objection to form.
15 Outside the scope.

16 THE WITNESS: Agreed.

17 QUESTIONS BY MR. FARRELL:

18 Q. Little B says, "Controlled
19 substance customer purchase report."

20 That's a document that should
21 exist as of July of 2000, agreed?

22 MS. HENN: Objection to form.
23 Outside the scope.

24 THE WITNESS: Agreed.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Little C says, "Daily
3 controlled substance suspicious order warning
4 report."

5 That's a document that should
6 exist as of July 2000, agreed?

7 MS. HENN: Objection to form.
8 Outside the scope.

9 THE WITNESS: Agreed.

10 QUESTIONS BY MR. FARRELL:

11 Q. Next page, little D, "Monthly
12 controlled substance suspicious purchases
13 report."

14 That's a document that should
15 exist as of July 2000, agreed?

16 MS. HENN: Objection to form.
17 Outside the scope.

18 THE WITNESS: Agreed.

19 QUESTIONS BY MR. FARRELL:

20 Q. And little E, "Monthly ARCOS
21 customer recap variance." Again, another
22 document that should exist as of July 2000 as
23 part of the McKesson suspicious order
24 detecting policy.

25 MS. HENN: Objection to form.

1 Outside the scope.

2 QUESTIONS BY MR. FARRELL:

3 Q. Agreed?

4 A. Can you rephrase that in terms
5 of...

6 Q. Yeah. We're talking about
7 under paragraph A, which is "Detecting
8 Suspicious Orders."

9 A. Agreed.

10 Q. Now, on page 30 there,
11 paragraph B, "Reporting," it says, "The
12 Drohan Data Center will generate the daily
13 controlled substance suspicious order warning
14 reports every two hours, 24 hours a day."

15 Do you see that?

16 A. I see that.

17 Q. Have you seen any of those
18 reports?

19 MS. HENN: Objection. Outside
20 the scope.

21 THE WITNESS: I have.

22 QUESTIONS BY MR. FARRELL:

23 Q. Did you review them in
24 anticipation of today's deposition?

25 A. I did.

1 Q. And how far back did you review
2 them?

3 A. I'm not certain of the dates on
4 the examples that I had.

5 Q. How old?

6 A. In the early 2000s, I believe.
7 I'd have to look.

8 Q. Did those reports help inform
9 you of the policies and procedures for
10 McKesson in preparation for today's
11 deposition?

12 MS. HENN: Objection to form.

13 THE WITNESS: They did.

14 QUESTIONS BY MR. FARRELL:

15 Q. And did they help refresh your
16 recollection in preparation for today's
17 testimony?

18 MS. HENN: Objection to form.

19 THE WITNESS: They did.

20 QUESTIONS BY MR. FARRELL:

21 Q. Are those documents important
22 to McKesson for purposes of complying with
23 its duties under the Controlled Substances
24 Act beginning in July of 2000?

25 MS. HENN: Objection to form.

1 Outside the scope.

2 THE WITNESS: Can you say it

3 again one more time?

4 QUESTIONS BY MR. FARRELL:

5 Q. Are those documents important

6 to McKesson for purposes of complying with

7 its duties under the Controlled Substances

8 Act beginning in July of 2000?

9 MS. HENN: Objection to form.

10 Outside the scope.

11 THE WITNESS: They are

12 important.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8

MS. HENN: Objection to form.

9

Outside the scope.

10

QUESTIONS BY MR. FARRELL:

11

Q. Would you like me to restate

12

it?

13

A. Yeah, please.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

█ [REDACTED]

3 MS. HENN: Objection to form.

4 Outside the scope.

5 QUESTIONS BY MR. FARRELL:

6 Q. It's what the policy says?

7 MS. HENN: Same objections.

8 THE WITNESS: Can you say that

9 again or point me to the policy

10 section you're referring to?

11 QUESTIONS BY MR. FARRELL:

12 Q. Yes.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

[illegible]

[illegible]

The image displays a horizontal bar chart consisting of 28 rows. Each row begins with a small, dark gray square icon. To the right of each icon is a horizontal gray bar. The bars vary in their starting and ending horizontal positions relative to the chart's margins. Some bars start at the left margin, while others are indented. The lengths of the bars also vary, with some extending nearly to the right margin and others being much shorter. The overall pattern of bars is irregular and non-repeating.

[illegible]

[REDACTED]

20 Q. So you acknowledge, sitting
21 here today as McKesson, that simply
22 submitting reports to the DEA does not comply
23 with the US Code or the Code of Federal
24 Regulations?

25 MS. HENN: Objection to form.

█

[REDACTED]

█

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

6

MS. HENN: Objection to form.

7

Outside the scope.

8

THE WITNESS: One more time,

9

please.

10

QUESTIONS BY MR. FARRELL:

█

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

[REDACTED]

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[REDACTED]

█

█

[REDACTED]

The image displays a horizontal bar chart consisting of 20 rows. Each row begins with a small, dark gray square icon. To the right of each icon is a horizontal bar of a uniform dark gray color. The bars vary in their starting and ending horizontal positions across the rows, creating a fragmented and abstract visual effect. Some bars span the entire width of the chart area, while others are shorter and positioned at different offsets from the left. The overall composition is minimalist and geometric.

21 QUESTIONS BY MR. FARRELL:

22 Q. This goes back to what we were
23 talking about earlier, is that aside from
24 your regulatory responsibilities, you also
25 perform a function that serves the public

1 interest at large?

2 A. Correct.

A horizontal bar chart titled "U.S. should take action to address climate change" showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists 16 different age and gender categories. The x-axis represents the percentage, ranging from 0 to 100. The bars are gray, and the background is white. The data is as follows:

Age Group	Gender	Percentage
18-29	Male	85%
18-29	Female	88%
30-49	Male	82%
30-49	Female	85%
50-69	Male	78%
50-69	Female	80%
70+	Male	75%
70+	Female	78%
18-29	Male	85%
18-29	Female	88%
30-49	Male	82%
30-49	Female	85%
50-69	Male	78%
50-69	Female	80%
70+	Male	75%
70+	Female	78%
18-29	Male	85%
18-29	Female	88%
30-49	Male	82%
30-49	Female	85%
50-69	Male	78%
50-69	Female	80%
70+	Male	75%
70+	Female	78%

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

7 QUESTIONS BY MR. FARRELL:

8 Q. Sitting here today, though, you
9 have not seen any such document?

10 A. I've not reviewed a completed
11 one. I've seen one.

12 Q. Do they still exist?

13 MS. HENN: Objection to form.
14 Outside the scope.

15 THE WITNESS: I'm not sure.

16 (McKesson-Hartle Exhibit 13
17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to have marked as the
20 next sequential exhibit Exhibit 13. The
21 document in the right-hand corner is
22 2001_0828.

23 Again, this is from the
24 HathiTrust.

25 A. I see that.

1 Q. It's a Congressional record
2 from 2001.

3 Can you read the title of the
4 Congressional investigation?

5 A. "OxyContin: Its use and abuse:
6 Hearing before the Subcommittee and Oversight
7 and Investigations of the Committee on Energy
8 and Commerce, House of Representatives, 107th
9 Congress, First Session, August 28th of
10 2001."

11 Q. Does McKesson acknowledge that
12 the use and abuse of OxyContin was on the
13 national radar at least as early as
14 August 28, 2001, with a Congressional
15 hearing?

16 MS. HENN: Objection to form.

17 THE WITNESS: Yes.

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to have you flip to
20 page 8. This is the introductory statement
21 from the chairman, James Greenwood, on the
22 Subcommittee on Oversight and Investigations.
23 He's from Pennsylvania.

24 Two-thirds of the way down, the
25 sentence says, "These actions, though

1 commendable, also appear long overdue."

2 Do you see that sentence?

3 A. I do see that.

4 Q. Will you begin reading,
5 starting with "according"?

6 A. "According to DEA, the number
7 of oxycodone-related deaths has increased
8 400 percent since 1996, the same time period
9 in which the annual number of prescriptions
10 for OxyContin has risen from approximately
11 300,000 to almost 6 million."

12 Q. And how did these
13 prescriptions -- how did these pills get from
14 Purdue Pharma, who makes OxyContin, to the
15 pharmacies?

16 MS. HENN: Objection to form.

17 THE WITNESS: After being
18 prescribed by a doctor --

19 QUESTIONS BY MR. FARRELL:

20 Q. Yes.

21 A. -- and sent to pharmacies --

22 Q. Yes.

23 A. -- or other by distributors.

24 Q. Right.

25 So between 1996 and the year

1 2001, the number of prescriptions went from
2 300,000 to almost 6 million. So the
3 OxyContin business was a-booming, wasn't it?

4 MS. HENN: Objection to form.

5 Outside the scope.

6 THE WITNESS: It increased
7 significantly.

8 QUESTIONS BY MR. FARRELL:

9 Q. And McKesson was amongst the
10 distributors that were delivering the pills
11 from Purdue Pharma to the pharmacies?

12 MS. HENN: Objection to form.

13 THE WITNESS: We were.

14 QUESTIONS BY MR. FARRELL:

15 Q. Do you believe that the
16 increase from 300,000 prescriptions to 6
17 million is an increase of unusual size?

18 MS. HENN: Objection to form.

19 Outside the scope.

20 THE WITNESS: Could you ask
21 that again?

22 QUESTIONS BY MR. FARRELL:

23 Q. You go from 300,000
24 prescriptions to 6 million in five years. Do
25 you think that that is an unusual increase?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: It appears to be
4 a significant increase. I don't -- I
5 don't have the context of before --
6 everything before, but it's a large
7 increase.

8 QUESTIONS BY MR. FARRELL:

9 Q. Well, assuming in 1996 there
10 were 300,000 prescriptions and five years
11 later there were 6 million, would you --
12 would you characterize that increase as
13 unusual?

14 MS. HENN: Objection to form.
15 Outside the scope.

16 THE WITNESS: I don't know if I
17 would characterize it as -- it's
18 significant.

19 QUESTIONS BY MR. FARRELL:

20 Q. Significant enough to get
21 McKesson's attention?

22 MS. HENN: Objection to form.

23 THE WITNESS: Significant
24 enough.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Yes?

3 A. Yes.

4 Q. Now, two paragraphs down it
5 says, "In its testimony today" --

6 Do you see that paragraph?

7 A. I do.

8 Q. -- "Purdue Pharma will argue
9 that the death figures heralded by newspapers
10 nationwide are inaccurate and are the prime
11 mover of the negative hype surrounding
12 OxyContin."

13 Do you see that sentence?

14 A. I do see that sentence.

15 Q. So does McKesson acknowledge
16 that death figures are being heralded by
17 newspapers nationwide as of 2001?

18 MS. HENN: Objection to form.

19 Outside the scope.

20 THE WITNESS: Could you ask

21 that again in a different way, maybe?

22 QUESTIONS BY MR. FARRELL:

23 Q. Yeah.

24 This is saying that there's
25 newspaper headlines across the country of

1 people dying taking opium pills that McKesson
2 is distributing.

3 Does McKesson acknowledge that?

4 MS. HENN: Objection to form.

5 Outside the scope.

6 THE WITNESS: Not that --

7 there's certainly headlines of
8 opioid-related deaths.

9 QUESTIONS BY MR. FARRELL:

10 Q. In 2001?

11 A. I don't know of any
12 specifically. I'm assuming there were in
13 that time frame.

14 Q. And it's a little unfair to ask
15 you because you weren't there in 2001, but as
16 McKesson's corporate designee I'm simply
17 looking for an acknowledgement that the chain
18 of distribution McKesson was involved in is
19 being heralded in newspapers as causing
20 deaths across the country.

21 MS. HENN: Objection to form.

22 Outside the scope.

23 QUESTIONS BY MR. FARRELL:

24 Q. Does McKesson acknowledge that
25 fact?

1 MS. HENN: Same objections.

2 THE WITNESS: I haven't seen
3 any of those headlines, so I can't
4 speak to whether us as a distributor
5 was called out in those.

6 QUESTIONS BY MR. FARRELL:

7 Q. I'm not asking you if you were
8 called out as a distributor. What I'm asking
9 you is if McKesson acknowledged that the
10 pills that it was selling was causing deaths
11 nationwide and resulted in newspaper
12 headlines across the country.

13 MS. HENN: Objection to form.
14 Outside the scope.

15 THE WITNESS: Yes, pills that
16 we distribute were in headlines.

17 QUESTIONS BY MR. FARRELL:

18 Q. And Purdue Pharma says that
19 "those headlines are inaccurate and the prime
20 mover of the negative hype surrounding
21 OxyContin."

22 Does McKesson Corporation,
23 sitting here today, concur with Purdue
24 Pharma?

25 MS. HENN: Objection to form.

1 Outside the scope.

2 THE WITNESS: Reading the rest
3 of this if you don't -- I'm reading
4 down a little bit more, so...

5 Can you ask your question
6 again?

7 QUESTIONS BY MR. FARRELL:

8 Q. Yeah.

9 Does McKesson Corporation,
10 sitting here today and testifying, concur
11 with Purdue Pharma that the nationwide
12 newspapers about overdose deaths are
13 inaccurate?

14 MS. HENN: Objection to form.
15 Outside the scope.

16 THE WITNESS: I can't speak to
17 that. I'd just be speculating.

18 QUESTIONS BY MR. FARRELL:

19 Q. You don't share Purdue Pharma's
20 disavow of the problems caused by its
21 OxyContin pills?

22 MS. HENN: Objection to form.
23 Outside the scope.

24 THE WITNESS: I'm not saying
25 that. I'm saying I can't answer the

1 question that you asked earlier.

2 (McKesson-Hartle Exhibit 14

3 marked for identification.)

4 QUESTIONS BY MR. FARRELL:

5 Q. Next exhibit we'll have marked

6 sequentially as Exhibit 4. It's from the

7 Internet. It's document 2002_09_26.

8 MS. HENN: Mr. Farrell, did you

9 mean Exhibit 4 or 14?

10 MR. FARRELL: 14.

11 MS. HENN: Okay.

12 MR. FARRELL: You caught me.

13 QUESTIONS BY MR. FARRELL:

14 Q. And I'm not going to bore you

15 with the details of this, but are you aware

16 of the Office of Inspector General?

17 A. I am.

18 Q. This is a report generated by

19 the OIG in 2002, and what it was talking

20 about was it was talking about the opioid

21 epidemic, and it was talking about the DEA's

22 ability to regulate the industry.

23 Have you reviewed this document

24 before today?

25 A. I have not.

1 Q. Give me a second here.

2 On Bates stamp page 12, it's
3 talking about diversion investigators. And
4 it says there were 55 at headquarters and 455
5 in the domestic field offices and 13
6 overseas.

7 Do you see that?

8 A. I do see that.

9 Q. So that means there's just over
10 500 DEA diversion investigators in the
11 country in 2001.

12 MS. HENN: Objection to form.

13 Outside the scope.

14 QUESTIONS BY MR. FARRELL:

15 Q. Responsible for regulating the
16 entire industry of the distribution of
17 controlled substances.

18 Do you know how many
19 transactions McKesson engaged in in the
20 distribution of controlled substances in
21 2001?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: I do not have the
25 number off the top of my head.

1 QUESTIONS BY MR. FARRELL:

2 Q. The OIG report basically says
3 that as of 2001 there needed to be
4 reassessment because the DEA was understaffed
5 and underfunded and didn't have sufficient
6 tools to be able to regulate the industry.

7 Does McKesson acknowledge and
8 agree with that assessment?

9 MS. HENN: Objection to form.
10 Outside the scope.

11 THE WITNESS: Could you ask
12 that again?

13 MR. FARRELL: Yeah, obviously
14 I'm leading up to some other
15 documents.

16 QUESTIONS BY MR. FARRELL:

17 Q. But does McKesson acknowledge
18 that in 2001 there were 500 DEA diversion
19 investigators trying to monitor all of the
20 transactions in the country?

21 MS. HENN: Objection to form.
22 Outside the scope.

23 THE WITNESS: I see that in the
24 documents. I can't speak to, you
25 know, the DEA's total -- their

1 response in total, so I can confirm
2 that's in -- what's in this document.

3 QUESTIONS BY MR. FARRELL:

4 Q. All right. So let's talk about
5 it from a theoretical standpoint.

6 Let's say there were 500
7 highway patrol officers charged with
8 regulating the speed on the highways in the
9 United States of America in the year 2001.

10 Do you believe that that would
11 be a significant challenge, a somewhat of a
12 challenge or not very challengeable at all?

13 MS. HENN: Objection to form.

14 Outside the scope.

15 THE WITNESS: Again, just
16 speculating, it would be a challenge.

17 QUESTIONS BY MR. FARRELL:

18 Q. How many people would speed in
19 America if there were only 500 highway
20 patrolmen in the country?

21 MS. HENN: Same objections.

22 THE WITNESS: I can't even
23 guess or speculate.

24 QUESTIONS BY MR. FARRELL:

25 Q. Do you think that would be a

1 lot of people or not a lot of people?

2 MS. HENN: Same objections.

3 THE WITNESS: Again, that

4 depends on how many law-abiding

5 citizens you have. I don't know if I

6 can speculate.

7 QUESTIONS BY MR. FARRELL:

8 Q. That is so true.

9 What do you think the American

10 citizen would do if they knew there were only

11 500 highway patrolmen?

12 MS. HENN: Objection to form.

13 Outside the scope.

14 THE WITNESS: Again, I don't

15 know. Some people might speed. Some

16 people might not change their behavior

17 at all.

18 QUESTIONS BY MR. FARRELL:

19 Q. That's right.

20 What if the penalty, if you did

21 get caught, was only \$10?

22 MS. HENN: Objection to scope.

23 QUESTIONS BY MR. FARRELL:

24 Q. How would that impact your view

25 of the regulation of the American highways?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: Again, you can
4 speculate. Some might see that as
5 a -- yeah, it depends. It really
6 depends.

7 QUESTIONS BY MR. FARRELL:

8 Q. What if the biggest weapon the
9 highway patrolmen had, which is the
10 revocation of the driver's license, was
11 changed and so now you don't even lose your
12 license? How would that impact the system?

13 MS. HENN: Same objections.

14 THE WITNESS: Impact the
15 system?

16 QUESTIONS BY MR. FARRELL:

17 Q. Yeah, impact the number of
18 speeders.

19 MS. HENN: Objection to form.
20 Outside the scope.

21 THE WITNESS: You can speculate
22 that it may go down.

23 QUESTIONS BY MR. FARRELL:

24 Q. The number of speeders would go
25 down if you can't lose your license anymore?

1 MS. HENN: Same objections.

2 THE WITNESS: Oh, if you
3 can't -- sorry, excuse me. It may go
4 up.

5 QUESTIONS BY MR. FARRELL:

6 Q. So if there's -- if there's a
7 limited number of regulators and a fine is
8 not substantial and you don't lose your
9 license, are we going to have more speeders
10 or less speeders?

11 MS. HENN: Objection to form.
12 Outside the scope.

13 THE WITNESS: Can you rephrase
14 that a little bit?

15 QUESTIONS BY MR. FARRELL:

16 Q. Yeah.

17 A. You rolled a few things in
18 there.

19 Q. You know what I'm trying to get
20 to, right? If there's not enough law
21 enforcement and the penalty isn't
22 prohibitive, what happens to conduct?

23 MS. HENN: Objection to form.
24 Outside the scope.

25 THE WITNESS: Again, it's

1 speculative, but it could -- you know,
2 behavior could change.

3 QUESTIONS BY MR. FARRELL:

4 Q. What if you made billion of
5 dollars by speeding, and there was not enough
6 regulation by law enforcement and the penalty
7 was not very big? What would that do as an
8 incentive?

9 MS. HENN: Same objections.

10 THE WITNESS: Again, it depends
11 on the situation, the scenario.

12 QUESTIONS BY MR. FARRELL:

13 Q. It really depends on whether or
14 not the individual is a law-abiding citizen
15 or a criminal, agreed?

16 MS. HENN: Same objections.

17 Object to form. Outside the scope.

18 THE WITNESS: It's part of it.

19 (McKesson-Hartle Exhibit 15
20 marked for identification.)

21 MR. FARRELL: Last exhibit and
22 then we'll take a break, if that's
23 okay.

24 MS. HENN: That works.

25 QUESTIONS BY MR. FARRELL:

1 Q. I'm going to have marked
2 Exhibit 15, and the exhibit in the top
3 right-hand corner is 2004_ 06_17. And for
4 those of you playing at home, this is an
5 excerpt from another Congressional record.

6 This Congressional record was
7 900 pages long, and so I did not copy the
8 whole thing; I just pulled out the part that
9 interested me.

10 This is part of the US Senate
11 Permanent Subcommittee on Investigations, and
12 it was a hearing in June of 2004. And the
13 title of the hearing was "Buyers Beware: The
14 Dangers of Purchasing Pharmaceuticals Over
15 the Internet."

16 Now, McKesson has some
17 experience with this, agreed?

18 MS. HENN: Objection to form.

19 THE WITNESS: Can you define --
20 experience. What type of experience?

21 QUESTIONS BY MR. FARRELL:

22 Q. Well, McKesson was selling to
23 Internet pharmacies in this time frame,
24 agreed?

25 MS. HENN: Objection to form.

1 THE WITNESS: I believe so.

2 QUESTIONS BY MR. FARRELL:

3 Q. Well, McKesson should know so
4 because you paid a \$13 million fine to the
5 DEA for doing that very thing in 2008.

6 MS. HENN: Objection to form.

7 THE WITNESS: Understood.

8 QUESTIONS BY MR. FARRELL:

9 Q. Okay. So this is a report, and
10 it was -- if you flip to page 2, it was
11 generated by a company called the
12 Pharmaceutical Research Manufacturers of
13 America. I guess they call it PhRMA.

14 Is that how you say it?

15 A. I don't know.

16 Q. Well, McKesson is a member of
17 this organization, and so colloquially within
18 your ranks do you call it PhRMA? PhRMA?
19 PhRMA? What do you say?

20 MS. HENN: Counsel, I'm sorry,
21 just a quick clarification. I'm not
22 seeing a reference -- I see reference
23 to Giuliani and his organization, but
24 I don't see PhRMA.

25 Can you just point out where

1 you're seeing that?

2 MR. FARRELL: Yeah, it's up on
3 the screen there, and it's in the very
4 middle.

5 MS. HENN: Thank you. I
6 appreciate that.

7 QUESTIONS BY MR. FARRELL:

8 Q. So does McKesson -- first, does
9 McKesson acknowledge that it is an associate
10 member of the Pharmaceutical Research and
11 Manufacturers of America?

12 MS. HENN: Objection to form.
13 Outside the scope.

14 THE WITNESS: I can't speak to
15 that. I don't know.

16 QUESTIONS BY MR. FARRELL:

17 Q. I'll represent to you -- I'll
18 represent to you that you are.

19 A. Okay.

20 Q. And do you know who this Rudy
21 Giuliani fellow is?

22 A. I do know who Mr. Giuliani is.

23 Q. He's a lawyer, too, isn't he?

24 A. He is.

25 Q. And he was hired to do this

1 investigation by the pharmaceutical industry.

2 Do you see that?

3 MS. HENN: Objection to form.

4 Outside the scope.

5 THE WITNESS: I don't know if I

6 see where specifically it states that.

7 QUESTIONS BY MR. FARRELL:

8 Q. It says, "Giuliani Partners has
9 been" --

10 A. Oh, in the middle. Okay.

11 Sorry.

12 Q. They have been retained by
13 PhRMA to do an evaluation.

14 A. Understood. I see that.

15 Q. Now what I'm going to have you
16 do is I'm going to have you flip over to
17 page 4, and it's interesting what Rudy
18 Giuliani found.

19 Do you see where it says "the
20 distribution chain"?

21 It says, "On its face, it
22 appears that the distribution chain for
23 prescription medicines in the United States
24 is fairly straightforward."

25 A. I was on the wrong number 4.

1 I see where it says that.

2 Q. And it says, "Manufacturers
3 sell their products to wholesalers."

4 That'd be you, McKesson,
5 correct?

6 A. Correct.

7 Q. "Who, in turn, sell the
8 products to retail pharmacies and stores,
9 who, in turn, dispense medicines to patients
10 with prescriptions."

11 Do you see that?

12 A. Yes.

13 Q. And that's a straightforward
14 system is what Rudy Giuliani is saying.

15 Will you read the next
16 sentence, please?

17 A. "It is not until the system is
18 studied in greater detail that one begins to
19 appreciate both the complexities and the
20 vulnerability of the distribution chain and
21 potential for exploitation or abuse."

22 Q. So big pharma is acknowledging
23 in 2004, through hiring their own expert in
24 presenting to Congress, that this chain of
25 distribution that McKesson is engaged in is

1 complex and vulnerable for exploitation or
2 abuse, agreed?

3 MS. HENN: Objection to form.
4 Outside the scope.

5 THE WITNESS: It's what they
6 listed in here and documented, yes.

7 QUESTIONS BY MR. FARRELL:

8 Q. And the very first factor for
9 contributing factors, will you read aloud
10 what it says?

11 A. "Wholesalers or distributors
12 are primarily regulated by the states, with
13 no uniform standards across state borders.
14 States have a comparatively small number of
15 investigators to monitor the licensed
16 wholesalers; thus, given the sheer number of
17 wholesalers, oversight is minimal."

18 Q. In the very next paragraph it
19 says, "There are thousands of secondary
20 pharmaceutical wholesalers in addition to
21 McKesson, AmerisourceBergen and Cardinal
22 Health, the big three."

23 Do you see that sentence?

24 A. I see that.

25 Q. So this is a recognition by big

1 pharma's own consultant that the chain of
2 distribution, at least in 2004 with respect
3 to rogue Internet pharmacies in particular,
4 was subject to exploitation or abuse.

5 MS. HENN: Objection to form.

6 Outside the scope.

7 QUESTIONS BY MR. FARRELL:

8 Q. Agreed that's what it says?

9 MS. HENN: Same objections.

10 THE WITNESS: Agree that's what
11 it says.

12 QUESTIONS BY MR. FARRELL:

13 Q. And in fact, McKesson paid a
14 fine for some of these exploitations and
15 abuse in 2008.

16 MS. HENN: Objection to form.

17 QUESTIONS BY MR. FARRELL:

18 Q. Agreed?

19 A. There was a fine as part of the
20 settlement.

21 Q. Related to this specific topic?

22 MS. HENN: Objection to form.

23 THE WITNESS: It was included
24 in the settlement.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. So yes?

3 A. Yes.

4 Q. So in 2004, we've got big
5 pharma acknowledging the chain of custody for
6 wholesalers is subject to exploitation or
7 abuse because of a lack of oversight?

8 MS. HENN: Objection to form.
9 Outside the scope.

10 THE WITNESS: Would you say
11 that again? Ask --

12 QUESTIONS BY MR. FARRELL:

13 Q. In 2004, big pharma hired Rudy
14 Giuliani's firm to do an evaluation of the
15 chain of distribution of prescription
16 medicines, and what he found was that the
17 chain of distribution was subject to
18 exploitation or abuse because of lack of
19 oversight?

20 A. That's what's stated in the
21 document, correct.

22 Q. And that during this time
23 frame, McKesson paid a fine for that very
24 thing?

25 MS. HENN: Objection to form.

1 THE WITNESS: In the 2008
2 settlement, yes.

3 QUESTIONS BY MR. FARRELL:

4 Q. And that fine was related to
5 McKesson selling an unusual size of
6 prescription opiate pills to rogue Internet
7 pharmacies?

8 MS. HENN: Objection to form.

9 THE WITNESS: Can you ask that
10 again, one more time? Sorry.

11 QUESTIONS BY MR. FARRELL:

12 Q. Yeah.

13 In this time frame, McKesson
14 ended up paying a fine to the DEA for selling
15 too many opium pills to rogue Internet
16 pharmacies in violation of federal law?

17 MS. HENN: Objection to form.

18 THE WITNESS: To be accurate,
19 I'd have to look at the document again
20 in terms of specific language, but it
21 was part of the settlement.

22 QUESTIONS BY MR. FARRELL:

23 Q. We'll get to that after lunch.

24 A. Okay.

25 Q. But you acknowledge that what

1 Rudy Giuliani said in 2004 came home to roost
2 with McKesson when it paid a fine in 2008?

3 MS. HENN: Objection to form.
4 Outside the scope.

5 THE WITNESS: I don't know if I
6 would characterize it as coming home
7 to roost, but they're connected or
8 they're related.

9 MR. FARRELL: Take a break.

10 VIDEOGRAPHER: The time is
11 12:04 p.m. We're going off the
12 record.

13 (Off the record at 12:04 p.m.)

14 VIDEOGRAPHER: The time is
15 1:05 p.m. We're back on the record.

16 (McKesson-Hartle Exhibit 16
17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to reference
20 Exhibit 16 which we've just had marked. The
21 top right-hand corner is 2006_09_27,
22 Bates-stamped MCKMDL00478906.

23 Do you recognize this document?

24 A. I do.

25 Q. What is it?

1 A. It's a letter from DEA to
2 registrants from Joe Rannazzisi.

3 Q. Is this -- you might need help
4 with counsel a little bit on this.

5 I don't see where this letter
6 is addressed to McKesson as the recipient;
7 however, this document was produced by
8 McKesson. And I'm assuming this is the 2006
9 Rannazzisi letter that was sent to McKesson.

10 Is that your understanding?

11 A. Yes.

12 Q. So there's no question
13 September 27, 2006, McKesson received this
14 communication.

15 Do you know whether or not
16 there was one document sent to McKesson or
17 there was a letter sent to each of your
18 distribution facilities?

19 A. That, I do not know.

20 MR. FARRELL: Okay. Can I ask,
21 Counsel, do you know?

22 MS. HENN: I'm sorry, I don't.

23 QUESTIONS BY MR. FARRELL:

24 Q. Anyway, if in fact there is
25 another document that has a specific one,

1 you'll agree with me that all of these 2006
2 letters that were sent out, they were sent
3 out to all the registrants across the
4 country?

5 MS. HENN: Objection to form.

6 THE WITNESS: Yeah, that's what
7 I believe to be the case, yeah.

8 QUESTIONS BY MR. FARRELL:

9 Q. In fact, the first sentence
10 says --

11 A. Right.

12 Q. -- this letter is being sent to
13 every commercial entity in the United
14 States --

15 A. Right.

16 Q. -- registered --

17 A. Whether it went to all of our
18 individual DCs, I can't confirm, but --

19 Q. But sitting here today as the
20 McKesson corporate designee, you acknowledge
21 receipt of the September 27, 2006 letter from
22 Joe Rannazzisi?

23 A. Yes.

24 Q. My understanding -- and we'll
25 get into it other documents -- is that prior

1 to this there was actually meetings with the
2 DEA regarding allegations that you were not
3 complying with your federal regulations; is
4 that fair?

5 MS. HENN: Objection to form.

6 THE WITNESS: I'm aware that
7 there were meetings.

8 QUESTIONS BY MR. FARRELL:

9 Q. I have been unaware of any
10 documents produced related to this time
11 frame, meaning 2004, 2005, 2006, related to
12 the initial investigations or internal
13 documents relating to the DEA's
14 investigation.

15 Have you seen any of those
16 documents?

17 MS. HENN: Objection to form.

18 THE WITNESS: Documents prior
19 to -- leading up to the settlement or
20 the investigation? I don't recall.

21 QUESTIONS BY MR. FARRELL:

22 Q. Okay.

23 A. I don't believe so.

24 Q. I've got some things that we'll
25 go through. What I'm really curious about,

1 whether or not there was anything prior to
2 September 27, 2006, that you recall?

3 MS. HENN: Objection to form.

4 THE WITNESS: Not that I
5 recall.

6 QUESTIONS BY MR. FARRELL:

7 Q. So at this point in time, the
8 Section 55 policy was still in force and
9 effect, correct?

10 A. Yes.

11 Q. Are you sure?

12 A. Yes.

13 Q. Okay. This letter was
14 received.

15 Do you know whether or not it
16 was circulated amongst McKesson or it was
17 discussed or reviewed or analyzed?

18 MS. HENN: Objection to form.

19 THE WITNESS: I'm not
20 100 percent sure I know who all
21 received it, so I can't answer that --
22 I can't answer that specifically.

23 QUESTIONS BY MR. FARRELL:

24 Q. Did McKesson change its conduct
25 at all based upon this correspondence?

1 A. From what I understand in
2 talking with a former McKesson employee
3 before this deposition, this was mostly a
4 confirmation or a reiteration of the
5 regulations, which McKesson knew, and
6 highlighting things that were -- you know,
7 that the team was doing. And it was sort of
8 a validation of some of the things that they
9 had been doing, so the red flags and things
10 like that. So not significant changes that
11 I'm aware of.

12 Q. Have you had an opportunity to
13 review the 2006 Rannazzisi letter in
14 preparation for today's deposition?

15 A. Yes.

16 Q. On behalf of McKesson
17 Corporation, are you willing to affirm,
18 acknowledge and validate all of the
19 statements Mr. Rannazzisi places in his
20 September 27, 2006 correspondence?

21 MS. HENN: Objection to form.
22 Outside the scope.

23 THE WITNESS: Could you be more
24 specific? Validate every single
25 statement and...

1 QUESTIONS BY MR. FARRELL:

2 Q. Yeah.

3 Paragraph C of the 30(b)(6)
4 notice asks for "testimony regarding
5 McKesson's past and present interpretation,
6 compliance, agreement and/or disagreement
7 with this letter from the DEA outlining the
8 duties imposed on a distributor under federal
9 law."

10 So let's start with this: Is
11 there anything in this letter that you
12 disagree with?

13 MS. HENN: Objection to form.

14 THE WITNESS: I don't believe
15 there's anything I would disagree
16 with.

17 QUESTIONS BY MR. FARRELL:

18 Q. Is this an accurate statement
19 of the law?

20 MS. HENN: Objection to form.

21 THE WITNESS: I believe it is.

22 QUESTIONS BY MR. FARRELL:

23 Q. So as of September 27, 2006,
24 the DEA is advising McKesson -- not advising,
25 but referencing the fact that there was a

1 prescription drug abuse problem in the United
2 States of America. That's in the very first
3 paragraph.

4 Does McKesson acknowledge that?

5 A. Yes.

6 Q. The next sentence says, "As
7 each of you is undoubtedly aware, the abuse,
8 nonmedical use, of controlled prescription
9 drugs is a serious and growing health problem
10 in the country."

11 Does McKesson agree and
12 acknowledge that fact as of 2006?

13 MS. HENN: Objection to form.

14 THE WITNESS: Yes.

15 QUESTIONS BY MR. FARRELL:

16 Q. The next full paragraph says,
17 "The Controlled Substances Act was designed
18 by Congress to combat diversion by providing
19 for a closed system of drug distribution in
20 which all legitimate handlers of controlled
21 substances must obtain a DEA registration; as
22 a condition of maintaining such registration,
23 must take reasonable steps to ensure that
24 their registration is not being utilized as a
25 source of diversion."

1 Does McKesson acknowledge and
2 agree with that statement?

3 MS. HENN: Objection to form.

4 THE WITNESS: I agree with
5 that.

6 QUESTIONS BY MR. FARRELL:

7 Q. I'd like you to read the next
8 sentence aloud, please.

9 A. Where it starts "distributors
10 are"?

11 Q. Yes.

12 A. "Distributors are, of course,
13 one of the key components of the distribution
14 chain."

15 Q. Keep going, please.

16 A. You want me to read the whole
17 paragraph? Okay.

18 "If the closed system is to
19 function properly as Congress envisioned,
20 distributors must be vigilant in deciding
21 whether a prospective customer can be trusted
22 to deliver controlled substances only for
23 lawful purposes. The responsibility is
24 critical, as Congress has expressly declared
25 that the illegal distribution of controlled

1 substances has a substantial and detrimental
2 effect on the health and general welfare of
3 the American people."

4 Q. So again, this is the DEA
5 reiterating what we've discussed before:
6 that failing to abide by the Code of Federal
7 Regulations has a substantial and detrimental
8 effect on the health and general welfare of
9 the American people.

10 Does McKesson agree and
11 acknowledge with that fact?

12 MS. HENN: Objection to form.

13 THE WITNESS: Yes.

14 QUESTIONS BY MR. FARRELL:

15 Q. Go to the next page, page 2,
16 the second full paragraph. It says,
17 "Nonetheless, given the extent of
18 prescription drug abuse in the United States,
19 along with the potential -- along with
20 dangerous and potentially lethal consequences
21 of such abuse" -- will you please finish that
22 sentence?

23 A. "Even just one distributor that
24 uses its DEA registration to facilitate
25 diversion can cause enormous harm."

1 Q. Does McKesson acknowledge and
2 accept that fact?

3 MS. HENN: Objection to form.

4 THE WITNESS: I agree with
5 that.

6 QUESTIONS BY MR. FARRELL:

7 Q. If you go down to the third to
8 last paragraph, it says, "In addition to
9 reporting all suspicious orders, a
10 distributor has a statutory responsibility to
11 exercise due diligence to avoid filling
12 suspicious orders that might be diverted into
13 other than legitimate medical, scientific and
14 industrial channels."

15 Does McKesson acknowledge and
16 accept that to be true?

17 MS. HENN: Objection to form.

18 THE WITNESS: Yes.

19 QUESTIONS BY MR. FARRELL:

20 Q. And then the last sentence of
21 the next paragraph says at the end, "The
22 distributor should exercise due care in
23 confirming the legitimacy of all orders prior
24 to filing."

25 Do you see that sentence?

1 Not "filing." "Prior to
2 filling."

3 A. I see that sentence.

4 Q. All right. Since I butchered
5 that sentence, will you please read the last
6 sentence that's highlighted on the screen?

7 A. "The distributor should
8 exercise due care in confirming the
9 legitimacy of all orders prior to filling."

10 Q. Now, this is in September
11 of 2006, agreed?

12 A. Agreed.

13 Q. And this is a clear statement
14 from the DEA; would you agree with that?

15 A. I would agree with that.

16 Q. McKesson's official position is
17 that when it received communications from the
18 DEA, the DEA was clear as of 2006?

19 MS. HENN: Objection to form.
20 Also beyond the scope.

21 THE WITNESS: The only question
22 I would have about possibility is due
23 care, what the definition of what due
24 care means.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Okay. Fair. Fair enough.

3 If you flip to the next page,
4 there's a laundry list of due care.

5 Do you agree on page 3 going
6 through this, the DEA was clear with McKesson
7 about the circumstances that might be
8 indicative of diversion?

9 MS. HENN: Objection to form.

10 THE WITNESS: I wouldn't
11 classify these -- I wouldn't call them
12 due care. These are to be red flags,
13 indicators.

14 QUESTIONS BY MR. FARRELL:

15 Q. So in 2006, the DEA is telling
16 McKesson, you have to exercise due care prior
17 to filling an order which you deem to be
18 suspicious, agreed?

19 MS. HENN: Objection to form.

20 THE WITNESS: Could you ask
21 that again? Restate that?

22 QUESTIONS BY MR. FARRELL:

23 Q. In 2006, the DEA is telling
24 McKesson, you have to exercise due care prior
25 to filling an order which you deem to be

1 suspicious, agreed?

2 A. That's what's in the document,
3 yes.

4 Q. Okay. Do you disagree with
5 that?

6 A. That they shared that, they --
7 I don't disagree with that.

8 Q. Yet your Section 55 policy, you
9 testified this morning, you were shipping
10 suspicious orders?

11 MS. HENN: Objection to form.

12 THE WITNESS: There was a
13 process by which those reports were
14 reviewed, which I would consider to be
15 part of due care in a review.

16 QUESTIONS BY MR. FARRELL:

17 Q. Is there a due care file for
18 each of those?

19 MS. HENN: Objection to form.

20 THE WITNESS: Not that I'm
21 aware of.

22 QUESTIONS BY MR. FARRELL:

23 Q. So there's no documentation of
24 the due care of each suspicious order that
25 was shipped by McKesson in accordance with

1 the July 2000 policies and procedures?

2 MS. HENN: Objection to form.

3 THE WITNESS: Could you restate
4 that, please?

5 QUESTIONS BY MR. FARRELL:

6 Q. Is there any documentation of
7 the due care performed by McKesson from
8 July 2000 onward pursuant to Section 55 with
9 regard to suspicious orders that were
10 shipped?

11 MS. HENN: Objection to form.
12 Outside the scope.

13 THE WITNESS: I can't speak to
14 the specific documentation and how it
15 was documented those reviews that were
16 conducted of those specific reports
17 that were generated. Could have been
18 documentation on a form.

19 QUESTIONS BY MR. FARRELL:

20 Q. Have you seen such
21 documentation?

22 MS. HENN: Objection to form.

23 THE WITNESS: I haven't
24 personally seen examples of that.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Have you seen any piece of
3 paper that indicates that the suspicious
4 orders that were shipped were subject to a
5 due diligence review beforehand, from
6 July 2000 to 2007?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 QUESTIONS BY MR. FARRELL:

10 Q. It doesn't mean they don't
11 exist.

12 A. Right.

13 Q. I'm just asking if you've seen
14 them.

15 MS. HENN: Same objections.

16 THE WITNESS: I don't believe
17 I've seen -- I haven't seen examples.

18 QUESTIONS BY MR. FARRELL:

19 Q. So you're taking it on faith
20 that due diligence was, in fact, performed?

21 MS. HENN: Objection to form.

22 Outside the scope.

23 THE WITNESS: From what I
24 understand and some of the
25 conversations I've had, that due

1 diligence processes did happen and
2 exist, yes.

3 QUESTIONS BY MR. FARRELL:

4 Q. Well, you'll agree with me that
5 Section 55 seems to indicate that there's no
6 subjective involvement regarding the
7 reporting of suspicious orders; it was a
8 statistical fact.

9 MS. HENN: Objection to form.
10 Outside the scope.

11 THE WITNESS: Can you ask that
12 one again?

13 QUESTIONS BY MR. FARRELL:

14 Q. Yeah, I'm not trying to play
15 word games.

16 A. I know.

17 Q. It appears from the Section 55
18 policy that's in writing that McKesson's
19 position was to eliminate subjective review
20 of whether or not a suspicious order was
21 reportable, and that the policy states if
22 it's deemed suspicious as a statistical fact,
23 it should be reported to the DEA. Agreed?

24 MS. HENN: Objection to form.
25 Outside the scope.

1 THE WITNESS: Agreed.

2 QUESTIONS BY MR. FARRELL:

3 Q. So every single order that was
4 deemed suspicious by your monitoring program
5 should have been reported to the DEA from
6 July 2000, at least through Rannazzisi's 2006
7 letter?

8 MS. HENN: Objection to form.
9 Outside the scope.

10 THE WITNESS: I believe that's
11 the case, to have faxed that or sent
12 it to the local diversion office.

13 QUESTIONS BY MR. FARRELL:

14 Q. If McKesson did not report
15 those orders, it was in violation of federal
16 law, agreed?

17 MS. HENN: Objection to form.
18 Outside the scope.

19 THE WITNESS: Can you ask that
20 one again or restate?

21 QUESTIONS BY MR. FARRELL:

22 Q. Yeah. It's a hypothetical.

23 A. Right.

24 Q. If McKesson did not report
25 suspicious orders detected following the

1 July 2000 Section 55 policy -- let me start
2 over. Let me see if I can make this as
3 simple as possible.

4 Beginning in July of the year
5 2000 --

6 A. Okay.

7 Q. -- if McKesson did not report a
8 suspicious order it detected pursuant to the
9 Section 55 policy, McKesson was in violation
10 of federal law; agreed or disagree?

11 MS. HENN: Objection to form.

12 Outside the scope.

13 THE WITNESS: I agree that it
14 would -- it's -- I don't know. Maybe
15 ask it again. I apologize for pausing
16 here.

17 QUESTIONS BY MR. FARRELL:

18 Q. It's an important question.

19 A. Yeah.

20 Q. McKesson has a statutory and
21 regulatory responsibility under federal
22 law --

23 A. Right.

24 Q. -- to report suspicious orders
25 to the DEA?

1 A. Correct.

2 Q. McKesson, in July of 2000,
3 adopted a policy that we've been referring to
4 as Section 55 --

5 A. Correct.

6 Q. -- to do that very thing?

7 A. Correct.

8 Q. That policy states that it's
9 not a subjective determination of whether to
10 report; it's a statistical fact of whether
11 you should report?

12 MS. HENN: Objection to form.

13 THE WITNESS: The report is a
14 statistical -- a statistically
15 generated one, yes.

16 QUESTIONS BY MR. FARRELL:

17 Q. And whether to report it to the
18 DEA is not a subjective determination; it's
19 mandatory if you detect a suspicious order?

20 MS. HENN: Objection to form.

21 Outside the scope.

22 THE WITNESS: I believe that to
23 be the case.

24 QUESTIONS BY MR. FARRELL:

25 Q. So if you didn't do that, it's

1 a violation of federal law?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 THE WITNESS: I believe so.

5 QUESTIONS BY MR. FARRELL:

6 Q. Big if, right?

7 A. If, right.

8 Q. If that happened, if McKesson
9 detected a suspicious order following the
10 Section 55 enactment and did not report it to
11 the DEA, that's a violation of federal law?

12 A. If.

13 MS. HENN: Objection to form.

14 (McKesson-Hartle Exhibit 17
15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. I'm going to mark what's going
18 to be Exhibit 17. The document ID is
19 2007_04_25. I apologize, there is no MDL
20 Bates stamp that I could locate; however,
21 there is a prior production Bates stamp of
22 MCK-HOI-002 dash a whole bunch of zeros and
23 then 1.

24 I'll give you a few minutes to
25 look through this.

1 Sir, have you seen this
2 document before today?

3 A. I don't believe I've seen this
4 specific one.

5 Q. I'll give you a minute to
6 review.

7 A. Okay. I've read that. Thank
8 you for taking the time.

9 Q. No problem.

10 So to start off with on this
11 exhibit, you acknowledge that there was a
12 meeting with the DEA on April 5, 2007. It's
13 from the very first paragraph.

14 A. Yes.

15 Q. So at this point in time, the
16 DEA had issued an order to show cause against
17 McKesson, agreed?

18 A. Correct.

19 Q. I've yet to see any
20 documentation of anything that predates
21 April 25, 2007, related to this
22 investigation.

23 Have you seen such documents?

24 MS. HENN: Objection to form.

25 THE WITNESS: I don't believe

1 so, no.

2 QUESTIONS BY MR. FARRELL:

3 Q. To the extent that such
4 documents do exist, we again reserve our
5 right to come back and discuss them further,
6 subject to the objection of counsel.

7 But for what we have here, this
8 appears that at least in April of 2007, the
9 DEA had already issued a rule to show cause
10 complaining that one of your distribution
11 centers was not following federal law,
12 agreed?

13 MS. HENN: Objection to form.

14 THE WITNESS: That's what they
15 alleged.

16 QUESTIONS BY MR. FARRELL:

17 Q. When you go to page 2 under
18 Proposed Action Plan, does this indicate to
19 you that McKesson is acknowledging that they
20 need to do better to comply with federal law?

21 MS. HENN: Objection to form.

22 THE WITNESS: I think this is
23 acknowledge -- excuse me --
24 acknowledgement of just improvements
25 in the program, taking information in

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 QUESTIONS BY MR. FARRELL:

13 Q. As a McKesson corporate
14 designee, are you willing to admit here today
15 that as of April 25, 2007, McKesson was not
16 fulfilling its obligations under federal law
17 regarding the monitoring of the distribution
18 of controlled substances?

19 MS. HENN: Objection to form.

20 THE WITNESS: Can you ask that
21 again, please?

22 QUESTIONS BY MR. FARRELL:

23 Q. As a McKesson corporate
24 designee, are you willing to admit here today
25 that as of April 25, 2007, McKesson was not

1 fulfilling its obligations under federal law
2 regarding the distribution of controlled
3 substances?

4 MS. HENN: Objection to form.

5 THE WITNESS: I believe in
6 partnership with DEA and always in
7 good faith, McKesson was believed to
8 be compliant with the regulations.

9 QUESTIONS BY MR. FARRELL:

10 Q. I understand that McKesson as a
11 corporate entity -- McKesson, it's not a
12 person, right? McKesson Corporation is a
13 fictional piece of paper that creates a
14 business model, agreed?

15 MS. HENN: Objection to form.

16 QUESTIONS BY MR. FARRELL:

17 Q. Is there a Mr. McKesson still
18 running the company?

19 A. No, there's not.

20 Q. All right. So McKesson is a
21 corporation?

22 A. Agreed. I understand that.

23 Q. And in April of 2007, it was
24 meeting with the federal government, the DEA,
25 and changing the way it was doing business,

1 agreed?

2 MS. HENN: Objection to form.

3 THE WITNESS: Changing,
4 enhancing, adding.

5 QUESTIONS BY MR. FARRELL:

6 Q. Okay. And in part, it was
7 because McKesson was not fulfilling its
8 obligations under federal law?

9 MS. HENN: Objection to form.

10 QUESTIONS BY MR. FARRELL:

11 Q. Can that even be disputed?

12 MS. HENN: Same objection.

13 QUESTIONS BY MR. FARRELL:

14 Q. You paid a \$13 million fine as
15 a result of this investigation.

16 Can you not acknowledge today,
17 in 2007 there were shortcomings in your
18 controlled substance monitoring program?

19 MS. HENN: Objection to form.

20 THE WITNESS: We denied those
21 allegations in that settlement, and we
22 obviously -- as any program does,
23 wants to improve and expand and take
24 new information in.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. So you paid \$13 million as a
3 tax write-off?

4 MS. HENN: Objection to form.

5 THE WITNESS: As a settlement
6 between both parties.

7 QUESTIONS BY MR. FARRELL:

8 Q. To settle what? Allegations of
9 what?

10 MS. HENN: Objection to form.

11 THE WITNESS: Issues related to
12 the regulations.

13 QUESTIONS BY MR. FARRELL:

14 Q. The allegations were that
15 McKesson was not fulfilling its obligations
16 under federal law, agreed?

17 A. That was the allegations.

18 Q. And McKesson wrote an action
19 plan and paid a fine to the DEA to get a
20 release for its conduct?

21 MS. HENN: Objection to form.

22 THE WITNESS: I think that's
23 accurate. We did.

24 QUESTIONS BY MR. FARRELL:

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. In fact, nobody in the country
13 was doing thresholds prior to this?

14 MS. HENN: Objection to form.
15 Outside the scope.

16 THE WITNESS: I'm not aware if
17 others were.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED] [REDACTED]
■ [REDACTED] [REDACTED]
■ [REDACTED]

4 QUESTIONS BY MR. FARRELL:

5 Q. So going back to the 2006
6 Rannazzisi letter, this is an acknowledgement
7 under the shipping requirement that you must
8 halt suspicious orders until due diligence is
9 performed?

10 MS. HENN: Objection to form.

11 THE WITNESS: Can you ask that
12 again or restate that, please?

13 QUESTIONS BY MR. FARRELL:

14 Q. Mr. Rannazzisi, in his 2006
15 letter from the DEA to McKesson, informed
16 McKesson of its duty to halt suspicious
17 orders, agreed?

18 A. Was that the specific language
19 or was that the due --

20 Q. We can go back and take a look
21 at it.

22 A. Yeah. Exercise due care.

23 Q. I mean, I don't care what
24 standard we're using right now; you can say
25 due diligence or due care. But the idea

1 being is in 2006, the DEA is telling McKesson
2 if you get a suspicious order, you have to
3 halt and you cannot ship it until you look
4 into it.

5 MS. HENN: Objection to form.

6 THE WITNESS: Can we look at
7 that specific language?

8 QUESTIONS BY MR. FARRELL:

9 Q. Sure.

10 A. Can you point it out to me?

11 Q. I hope so. 2006_09_27, page 2,
12 beginning with the paragraph, "Thus,"
13 two-thirds of the way down, "in addition to
14 reporting all suspicious orders" -- right?
15 What does that say? "In addition to
16 reporting all suspicious orders."

17 "All" means what?

18 A. All.

19 Q. So if you get a suspicious
20 order, what is McKesson supposed to do?

21 A. To report it.

22 Q. And if you don't, is that
23 lawful or unlawful?

24 MS. HENN: Objection to form.

25 THE WITNESS: That doesn't meet

1 the expectation or the guideline that
2 they lay out in this communication.

3 QUESTIONS BY MR. FARRELL:

4 Q. Which makes -- and that
5 guideline is premised upon what?

6 MS. HENN: Objection to form.

7 THE WITNESS: The CFR.

8 QUESTIONS BY MR. FARRELL:

9 Q. And so that makes it lawful or
10 unlawful?

11 MS. HENN: Objection to form.

12 THE WITNESS: Unlawful.

13 QUESTIONS BY MR. FARRELL:

14 Q. The next part: "A distributor
15 has a statutory responsibility to exercise
16 due diligence to avoid filling suspicious
17 orders."

18 Agreed?

19 A. I agree with that language. It
20 doesn't say -- that's not halt.

21 Q. Well, it's a halt until you do
22 due diligence --

23 A. Yeah.

24 Q. -- right?

25 A. It's not a block. Yeah, it's

1 a...

2 Q. Maybe this is just a
3 terminology issue.

4 A. Might be.

5 Q. Block -- all I'm saying is, is
6 that McKesson's not allowed to ship a
7 suspicious order without looking into it
8 first, agreed?

9 MS. HENN: Objection to form.

10 THE WITNESS: That's how I read
11 that language.

12 QUESTIONS BY MR. FARRELL:

13 Q. That is the law?

14 A. Yeah.

15 Q. Yes?

16 MS. HENN: Objection to form.

17 THE WITNESS: The law is to
18 design a system to identify suspicious
19 orders.

20 QUESTIONS BY MR. FARRELL:

21 Q. That's one part of the law.

22 A. Right.

23 Q. What does the CFR say?

24 MS. HENN: Objection to form.

25 THE WITNESS: To identify

1 orders of unusual size, pattern and
2 frequency.

3 QUESTIONS BY MR. FARRELL:

4 Q. And so if you ship a suspicious
5 order without doing due diligence, is that
6 lawful or unlawful?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, I'm -- the
9 CFR says you must design and operate a
10 system, right, and to identify
11 suspicious orders. I don't believe it
12 says to halt them.

13 QUESTIONS BY MR. FARRELL:

14 Q. It does?

15 A. In that specific language.

16 Q. It does or does not?

17 A. Does not.

18 Q. Is your interpretation of
19 federal law that you're allowed to ship a
20 suspicious order without conducting due
21 diligence?

22 MS. HENN: Objection to form.

23 QUESTIONS BY MR. FARRELL:

24 Q. Maybe this explains why
25 McKesson paid a \$150 million fine.

1 MS. HENN: Objection to form.

2 QUESTIONS BY MR. FARRELL:

3 Q. Let's get back to it.

4 Masters Pharmaceutical has a
5 reporting requirement and a shipping
6 requirement. We reviewed it this morning,
7 agreed?

8 A. Parts of it, correct. Agreed.

9 Q. It's premised upon a code
10 provision. The United States Congress passed
11 a US Code provision in 1970, agreed?

12 A. Agreed.

13 Q. And it passed -- the Department
14 of Justice enacted regulations which are
15 binding as federal law related to this very
16 topic, agreed?

17 A. Agreed.

18 Q. And if you don't follow those
19 rules, McKesson can be fined by the federal
20 government?

21 A. Agreed.

22 Q. McKesson's been fined twice
23 that I know of, once for 13 million in 2008
24 and once for 150 million in 2017, for
25 violating these very laws.

1 MS. HENN: Objection to form.

2 THE WITNESS: That's what was
3 alleged.

4 QUESTIONS BY MR. FARRELL:

5 Q. So my question to you is: Is
6 that the shipping requirement that you have
7 to halt a suspicious order under federal law
8 until you do due diligence is and always has
9 been the law in the United States of America?

10 MS. HENN: Objection to form.
11 Outside the scope.

12 THE WITNESS: Can you ask that
13 again, please?

14 QUESTIONS BY MR. FARRELL:

15 Q. The shipping requirement and
16 the reporting requirement as outlined in the
17 Masters Pharmaceutical case is and always has
18 been the law in the United States of America?

19 MS. HENN: Objection to form.
20 Outside the scope.

21 THE WITNESS: I believe that's
22 the law. I mean...

23 QUESTIONS BY MR. FARRELL:

24 Q. Well, you're McKesson --

25 MS. HENN: Did you finish your

1 answer?

2 THE WITNESS: I did. I didn't
3 really have a -- yeah.

4 MS. HENN: Okay. Just making
5 sure.

6 QUESTIONS BY MR. FARRELL:

7 Q. So your answer is yes?

8 MS. HENN: Objection to form.

9 THE WITNESS: Yes.

10 QUESTIONS BY MR. FARRELL:

11 Q. I don't want to -- I don't want
12 you to hesitate.

13 A. I'm not a legal expert.

14 Q. I'm not asking you to be a
15 legal expert.

16 A. Right.

17 Q. I'm asking McKesson
18 Corporation -- I know this -- to be fair, I
19 understand you are in a role with McKesson
20 being asked to step in the shoes of a
21 corporation and answer on its behalf.

22 A. Right.

23 Q. So I'm not trying to be rude,
24 and I know I'm pressing you.

25 A. Right.

1 Q. But what I'm trying to do is,
2 for the record, create McKesson's position.
3 And I've asked for McKesson to designate
4 someone to announce its position, and
5 fortunately it's you.

6 So let me repeat the question.
7 The shipping requirement and the reporting
8 requirement as outlined and defined in the
9 Masters Pharmaceutical case is and always has
10 been the law in the United States of America;
11 agree or disagree?

12 MS. HENN: Object to the form
13 of the question. It's outside the
14 scope.

15 THE WITNESS: I agree that
16 that's the law.

17 QUESTIONS BY MR. FARRELL:

18 Q. And if you don't follow the
19 law, that makes it unlawful?

20 MS. HENN: Objection to form.

21 THE WITNESS: If you don't
22 follow a law, that would be unlawful.

23 QUESTIONS BY MR. FARRELL:

24 Q. And if you don't follow the
25 shipping requirement, that's unlawful?

1 MS. HENN: Objection to form.

2 THE WITNESS: And if you don't

3 follow the law, I would agree.

4 QUESTIONS BY MR. FARRELL:

5 Q. And if you don't follow the

6 reporting requirement, that's the law?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, if you

9 don't follow the law, if you don't

10 follow the guidelines, it would be

11 unlawful.

12 QUESTIONS BY MR. FARRELL:

13 Q. So when you look at paragraph 7

14 of Exhibit 17, the 2007 correspondence from

15 McKesson to the DEA, you are announcing that

16 you're going to adopt new measures,

17 additional measures, revised, amended,

18 changed, more measures, to comply with

19 federal law?

20 MS. HENN: Objection to form.

21 QUESTIONS BY MR. FARRELL:

22 Q. Agree or disagreed?

23 MS. HENN: Objection to form.

24 THE WITNESS: We're

25 communicating that we were enhancing

1 the program.

2 QUESTIONS BY MR. FARRELL:

3 Q. In response to allegations that
4 you were not fulfilling your obligations
5 under the shipping requirement and reporting
6 requirement?

7 MS. HENN: Objection to form.

8 THE WITNESS: In part due to
9 allegations.

10 QUESTIONS BY MR. FARRELL:

11 Q. Now, this letter is addressed
12 to Linden Barber.

13 Do you know who Linden Barber
14 is?

15 A. I've heard of Linden Barber.

16 Q. How have you heard of him?

17 A. Just in my past experience even
18 prior to McKesson, knowing he was in DEA.

19 Q. Do you know where he is now?

20 A. He's at Cardinal.

21 Q. Cardinal Health?

22 How come you-all didn't hire
23 him?

24 A. I can't speak to that. I don't
25 know. I'm confident in the people we have on

1 the team.

Response	Percentage
Yes, the U.S. should take action to reduce greenhouse gas emissions	95%
No, the U.S. should not take action to reduce greenhouse gas emissions	5%

Response	Percentage
Yes	~5%
No	~25%
Don't know	~70%

Age Group	Percentage
18-24	10%
25-34	15%
35-44	20%
45-54	25%
55-64	20%
65-74	15%
75-84	10%
85+	5%

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[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. Perfect.

13 Have you seen the customer
14 files for Cuyahoga County and Summit County?

15 A. I have not.

16 Q. Me either.

17 Do they exist?

18 A. I can't speak to that. I don't
19 know.

20 Q. Okay. One of the 30(b)(6)
21 topics that I asked was to talk about these
22 due diligence files.

23 You're telling me you haven't
24 seen any of the due diligence files for any
25 pharmacy in Summit County and Cuyahoga

1 County?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 QUESTIONS BY MR. FARRELL:

5 Q. It's okay if you haven't, and I
6 don't want you guessing.

7 A. No, I understand.

8 I've seen files. I don't know
9 about files during this time frame with a
10 Level 1, 2 or 3 review. I can't recall.

11 Q. Let me ask you this: How --
12 how many pharmacies in May of 2007, in
13 Cuyahoga and Summit County, do you reckon
14 ordered more than 8,000 pills of hydrocodone
15 or oxycodone?

16 MS. HENN: Objection to form.

17 Outside the scope.

18 THE WITNESS: I don't know.

19 I'd be guessing.

20 QUESTIONS BY MR. FARRELL:

21 Q. Let's say there's ten. Should
22 there be ten customer files that document why
23 McKesson was exceeding 8,000 pills a month?

24 MS. HENN: Objection to form.

25 THE WITNESS: There should be

1 documentation.

2 QUESTIONS BY MR. FARRELL:

3 Q. And if there was no due
4 diligence performed but those pills were
5 still shipped, is that lawful or unlawful?

6 MS. HENN: Objection to form.

7 QUESTIONS BY MR. FARRELL:

8 Q. Do you want me to repeat the
9 question?

10 A. Sure.

11 Q. If, if, if, three ifs, no due
12 diligence was performed, yet McKesson still
13 shipped more than 8,000 oxycodone pills to a
14 pharmacy in Cuyahoga or Summit County in May
15 of 2007, is that lawful or unlawful according
16 to the federal regulations?

17 MS. HENN: Objection to form.

18 QUESTIONS BY MR. FARRELL:

19 Q. Why are you struggling with
20 this?

21 A. I'm just thinking. I mean,
22 it's -- if it's -- it wouldn't be lawful.

23 Q. That makes it...

24 A. If there weren't documentation.
25 Or due diligence, excuse me.

1 Q. Then it would be lawful or
2 unlawful?

3 MS. HENN: Objection to form.

4 THE WITNESS: It would be
5 unlawful.

6 QUESTIONS BY MR. FARRELL:

7 Q. So it's summarizing altogether.
8 If in May of 2007 McKesson is shipping to a
9 pharmacy in Cuyahoga or Summit County,
10 Cleveland, Ohio, or Akron, Ohio, more than
11 8,000 pills of hydrocodone or more than 8,000
12 pills of oxycodone, without conducting a due
13 diligence review, then McKesson is engaging
14 in unlawful conduct according to federal law,
15 agreed?

16 MS. HENN: Objection to form.

17 THE WITNESS: Can you ask it
18 again? I apologize. Let's pause
19 here. I'm not a lawyer.

20 QUESTIONS BY MR. FARRELL:

21 Q. I know you're not. And again,
22 I'm going to reiterate --

23 A. There's discretion in how this
24 due diligence is done and documented, so I'm
25 trying to understand.

1 Q. That's right. So -- you're
2 right. So let me see if I can say it again.

3 If in May of 2007 McKesson
4 Corporation is shipping to a pharmacy in
5 Cuyahoga or Summit County, Cleveland, Ohio,
6 or Akron, Ohio, more than 8,000 pills of
7 oxycodone or more than 8,000 pills of
8 hydrocodone without conducting due diligence,
9 then McKesson Corporation is engaging in
10 unlawful conduct according to federal law?

11 MS. HENN: Object to form.

12 THE WITNESS: I don't know how
13 to answer that exactly. It depends.

14 QUESTIONS BY MR. FARRELL:

15 Q. Depends on what?

16 If you ship more than 8,000
17 pills without conducting due diligence,
18 McKesson is engaging in unlawful conduct
19 according to federal law?

20 MS. HENN: Objection to form.

21 Go ahead.

22 THE WITNESS: It can be
23 interpreted that way. I mean, it --

24 QUESTIONS BY MR. FARRELL:

25 Q. Well, the DEA certainly

1 interprets it that way, agreed?

2 A. They have.

3 Q. And McKesson has paid fines
4 based on that DEA interpretation, agreed?

5 MS. HENN: Objection to form.

6 THE WITNESS: We've paid fines.

7 Again, we're --

8 QUESTIONS BY MR. FARRELL:

9 Q. Based on the allegations by the
10 DEA that you shipped suspicious orders
11 without conducting due diligence?

12 MS. HENN: Objection to form.

13 Go ahead.

14 THE WITNESS: Based on those
15 allegations.

16 QUESTIONS BY MR. FARRELL:

17 Q. Yes.

18 A. Right.

19 Q. The answer is yes?

20 A. Yes.

21 Q. See, a yes just gets me moving
22 faster. Oh, this one's gonna be fun.

23 MR. FARRELL: Why don't we take
24 a quick break.

25 MS. HENN: Okay.

1 VIDEOGRAPHER: The time is
2 2:08 p.m., and we're going off the
3 record.

4 (Off the record at 2:08 p.m.)

5 VIDEOGRAPHER: The time is
6 2:20 p.m., and we're back on the
7 record.

8 (McKesson-Hartle Exhibit 18
9 marked for identification.)

10 QUESTIONS BY MR. FARRELL:

11 Q. The next exhibit we're going to
12 have marked is Exhibit 18.

13 For reference, the top
14 right-hand corner is 2007_04_XX. The reason
15 it's XX is the metadata has not yet told me
16 what day of the month it is.

17 Do you know what day of the
18 month this conference was back in 2007?

19 A. I can't think off the top of my
20 head, no. Yeah.

21 Q. The Bates stamp, we have a MDL
22 Bates stamp of MCKMDL00403340.

23 Do you recognize this document?

24 A. I do.

25 Q. What is it?

1 A. This is a presentation given by
2 Don Walker about -- at a company meeting
3 about the Lifestyle Drug Program.

4 Q. And Don Walker at the time
5 was -- would be working for McKesson?

6 A. Yes.

7 Q. So this is a McKesson document?

8 A. Excuse me, yes.

9 Q. It's produced in the MDL by the
10 McKesson lawyers?

11 A. Yes.

12 Q. From the McKesson files?

13 A. Yes.

14 Q. And is a true and accurate copy
15 of the presentation given at the national
16 operations conference in 2007?

17 MS. HENN: Objection to form.

18 THE WITNESS: Yes, I believe
19 so. I wasn't there, but I believe so,
20 yeah.

21 QUESTIONS BY MR. FARRELL:

22 Q. So this national operations
23 conference 2007, this is a conference that is
24 just for McKesson employees. Is that your
25 understanding?

1 A. Yeah, they typically are.

2 Q. It's from -- Mr. Boggs
3 testified about it previously. So this was
4 in 2007. Management basically gets together,
5 and Don Walker is the senior vice president
6 of distribution operations, is giving a
7 presentation on a number of topics in the
8 form of a PowerPoint slide?

9 A. Correct.

10 MS. HENN: Objection to form.

11 QUESTIONS BY MR. FARRELL:

12 Q. Yes?

13 A. Correct.

14 Q. So the title of this is
15 "Lifestyle Drugs and Internet Pharmacies."

16 "Lifestyle drugs" is an
17 interesting choice of words.

18 Do you know where it came from?

19 A. It's my understanding that's
20 the language that was -- the DEA used as well
21 and had referenced.

22 Q. Some of the files that I've
23 seen has the DEA asking McKesson where you
24 came up with the oxycodone, hydrocodone and
25 opium pills as lifestyle drugs.

1 MS. HENN: Objection to form.

2 THE WITNESS: All I can tell

3 you is I -- what I've heard is that

4 it's the term that came from DEA.

5 QUESTIONS BY MR. FARRELL:

6 Q. On page 2, it identifies

7 several different topics: public health

8 issue, DEA focus, McKesson involvement,

9 current status, and Lifestyle Drug Monitoring

10 Program. So these will be our jeopardy

11 questions today.

12 Public health issues. Can you

13 read what the very -- on page 3, can you read

14 what the first item is?

15 A. "Abuse of prescription drugs

16 has risen 66 percent since 2000."

17 Q. So this is McKesson telling

18 McKesson employees that we're in the business

19 of selling opium pills, and abuse has risen

20 66 percent since 2000.

21 Does that not give you,

22 Mr. McKesson Corporation, pause to think

23 about whether or not your role in the chain

24 of distribution is contributing to the abuse?

25 MS. HENN: Objection to form.

1 THE WITNESS: Can you ask that
2 again, please?

3 QUESTIONS BY MR. FARRELL:

4 Q. This is McKesson telling
5 McKesson employees that abuse of prescription
6 drugs has risen 66 percent since the year
7 2000.

8 Does that not give you,
9 Mr. McKesson Corporation, pause to think
10 about whether or not your role in the chain
11 of distribution is contributing to such
12 abuse?

13 MS. HENN: Objection to form.

14 THE WITNESS: I think it's --
15 it should give everybody pause that
16 that was the trend that was going on,
17 and it's a piece of information shared
18 with leaders to inform them. So --

19 QUESTIONS BY MR. FARRELL:

20 Q. But not everybody is selling
21 opium pills; McKesson is.

22 MS. HENN: Counsel, can we just
23 make sure we let the witness finish
24 his answers?

25 MR. FARRELL: Sure. I was

1 trying to make a snarky remark.

2 MS. HENN: Thank you.

3 QUESTIONS BY MR. FARRELL:

4 Q. Not everyone is engaged in the
5 chain of distribution of opium pills, though?

6 MS. HENN: Objection to form.

7 THE WITNESS: Agree.

8 QUESTIONS BY MR. FARRELL:

9 Q. So I'm asking you, McKesson
10 Corporation, whether or not you have any
11 regrets about selling so many opium pills.

12 MS. HENN: Objection to form.

13 Outside the scope.

14 THE WITNESS: Back to your
15 question about this, I would -- sure
16 that gives you pause, I mean, to
17 understand that there's an epidemic
18 out there. And clearly there's many
19 players involved in the flow of
20 distribution.

21 QUESTIONS BY MR. FARRELL:

22 Q. As of 2007, McKesson is
23 recognizing that opioid painkillers kill more
24 than cocaine and heroin combined, agreed?

25 MS. HENN: Objection to form.

1 THE WITNESS: Agree.

2 QUESTIONS BY MR. FARRELL:

3 Q. And these are McKesson's words.

4 Where is McKesson getting this
5 data from?

6 MS. HENN: Objection to form.

7 Outside the scope.

8 THE WITNESS: I don't know
9 specifically where they -- their
10 source of data for that particular
11 line, but information from different
12 sources. Could be DEA, could be CDC,
13 it could be wherever.

14 QUESTIONS BY MR. FARRELL:

15 Q. It says here, "Rogue Internet
16 pharmacies distributing oxycodone,
17 hydrocodone, phentermine and alprazolam," yet
18 McKesson was selling to rogue Internet
19 pharmacies, true?

20 MS. HENN: Objection to form.

21 Outside the scope.

22 THE WITNESS: Can you ask that
23 again, please?

24 QUESTIONS BY MR. FARRELL:

25 Q. McKesson is noting that rogue

1 Internet pharmacies are selling oxycodone and
2 hydrocodone, yet what's missing from this
3 slide is the fact that McKesson was supplying
4 the pills to the rogue Internet pharmacies.

5 MS. HENN: Objection to form.

6 THE WITNESS: And what's your
7 specific question again?

8 QUESTIONS BY MR. FARRELL:

9 Q. What gives?

10 MS. HENN: Objection to form.

11 THE WITNESS: I don't know what
12 type of response a "what gives"
13 question is.

14 QUESTIONS BY MR. FARRELL:

15 Q. Yeah. You're noting that
16 people are dying, and part of the reason is
17 that rogue Internet pharmacies are out there.
18 Yet McKesson, during this time frame, is
19 selling to some of those very same Internet
20 pharmacies, and that's what the DEA fined you
21 for.

22 So is this ignorance of who
23 you're selling to? Is this repackaging,
24 reframing the issue? Or is it just flat out
25 a misrepresentation?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: This is raising
4 awareness in -- about the issues that
5 are the public health issues,
6 communicating with leaders and sharing
7 the -- where McKesson is enhancing the
8 program.

9 QUESTIONS BY MR. FARRELL:

10 Q. But you understand that the
11 rogue Internet pharmacies were getting their
12 pills from, among other people, McKesson,
13 agreed?

14 A. I understand.

15 MS. HENN: Objection to form.

16 QUESTIONS BY MR. FARRELL:

17 Q. Agreed?

18 A. I understand. Agreed.

19 Q. I'm asking if you understand.

20 I want you to confirm that the rogue Internet
21 pharmacies were in fact getting some of their
22 pills from McKesson.

23 MS. HENN: Objection to form.

24 THE WITNESS: I don't have
25 specific details on that, but --

1 QUESTIONS BY MR. FARRELL:

2 Q. You understand that to be true?

3 A. -- I understand that to be
4 true.

5 Q. So McKesson Corporation admits
6 it was selling oxycodone and hydrocodone to
7 rogue Internet pharmacies in and around 2007?

8 MS. HENN: Objection to form.
9 Outside the scope.

10 THE WITNESS: Again, I don't
11 know the specific examples and --

12 QUESTIONS BY MR. FARRELL:

13 Q. I'm not asking for specific
14 examples.

15 A. Right.

16 Q. I'm asking you to confirm that
17 in 2007, McKesson Corporation was selling
18 oxycodone and hydrocodone to rogue Internet
19 pharmacies.

20 MS. HENN: Objection to form.

21 And, Counsel, I'll just ask you
22 to let him finish his answers so that
23 he can get his answers out.

24 MR. FARRELL: Yes, ma'am.

25 THE WITNESS: Again, I don't

1 have the specific examples. I believe
2 that to be true, but I don't know the
3 specific details.

4 QUESTIONS BY MR. FARRELL:

5 Q. The next page, page 4,
6 "Internet pharmacies." It says,
7 "Investigative work hours have doubled."

8 Do you know what it doubled
9 from or to?

10 A. I do not.

11 Q. "Cutting supply critical to
12 success."

13 What does that mean?

14 A. I don't know. I don't know
15 what the speaking points or -- it's one
16 bullet. I'm not sure how it was represented
17 or communicated.

18 Q. Do you know what price
19 diversion is?

20 A. Not specifically.

21 Q. Was McKesson at this time
22 considering that some of the Internet
23 pharmacies were competing with McKesson for
24 business?

25 MS. HENN: Objection to form.

1 THE WITNESS: I do not know.

2 Pricing is not my area.

3 QUESTIONS BY MR. FARRELL:

4 Q. Okay. It says, "Wholesalers.
5 DEA expects that you know your customers."

6 What does that mean? It's in
7 quotations.

8 A. Right.

9 MS. HENN: Objection to form.

10 MR. FARRELL: Well, it is in
11 quotations, isn't it?

12 MS. HENN: I was objecting to
13 asking what DEA means when they said
14 "know your customers." That was what
15 was my objection.

16 QUESTIONS BY MR. FARRELL:

17 Q. So McKesson is writing a slide
18 following a meeting with the DEA, reporting
19 to the DEA employees what the DEA's focus
20 was, and what McKesson is reporting is that
21 the DEA expects you to know your customers.

22 Is that fair?

23 A. That's fair.

24 Q. And when we do, quote, "know
25 our customers," end quote, that's a tag line

1 for distributors with regard to knowing the
2 customers you're selling opium pills to?

3 MS. HENN: Objection to form.

4 THE WITNESS: That is a DEA tag
5 line.

6 QUESTIONS BY MR. FARRELL:

7 Q. And then the next sentence, can
8 you read it out loud, please?

9 A. The next bullet?

10 Q. Yes.

11 A. "Wholesalers accountable for
12 controlling quantities shipped."

13 Q. Is that true or not true?

14 MS. HENN: Objection to form.

15 THE WITNESS: Can you add a
16 little more context to your question?

17 I know it's a true/false question,
18 but --

19 QUESTIONS BY MR. FARRELL:

20 Q. Yes.

21 The DEA expects the wholesalers
22 to be accountable for controlling quantities
23 that they ship.

24 Is that fair or unfair?

25 MS. HENN: Objection to form.

1 Go ahead.

2 THE WITNESS: That's what
3 the -- that's what the DEA expects, I
4 guess, yeah.

5 QUESTIONS BY MR. FARRELL:

6 Q. Does McKesson acknowledge that
7 it is accountable for controlling the
8 quantities of opium pills shipped to American
9 pharmacies?

10 A. We're accountable as a
11 distributor.

12 Q. The next thing says, "5,000
13 dose units is average."

14 The average American pharmacy
15 in 2007, as reported by the DEA to McKesson,
16 was that 5,000 doses of oxycodone or 5,000
17 doses of hydrocodone was average.

18 A. That's what the DEA -- DEA
19 calculations.

20 Q. And McKesson at least validated
21 that number by repeating it on a slide to the
22 national operations conference in 2007.

23 MS. HENN: Objection to form.

24 QUESTIONS BY MR. FARRELL:

25 Q. Agreed?

1 A. I wouldn't say that they
2 validated. We just repeated what was shared.

3 Q. Did McKesson undertake any
4 investigation to determine what the average
5 was itself?

6 A. I believe they did. I can't
7 speak to the examples, but we've used
8 analysts and reviewed data when developing
9 thresholds and...

10 Q. Does McKesson acknowledge that
11 in 2007 5,000 dose units was average in the
12 United States of America?

13 MS. HENN: Objection to form.
14 Outside the scope.

15 THE WITNESS: We acknowledge
16 that's what the DEA shared. I mean,
17 there's many ways to get averages.

18 QUESTIONS BY MR. FARRELL:

19 Q. Sitting here today, does
20 McKesson Corporation have any reason to
21 disagree or dispute the DEA's estimation of
22 what the average dose unit was?

23 MS. HENN: Objection to form.
24 Outside the scope.

25 THE WITNESS: What I would

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 QUESTIONS BY MR. FARRELL:

13 Q. As of April of 2007, which we
14 believe to be the date of this conference,
15 have you seen any documentation anywhere in
16 the records of McKesson Corporation that
17 indicate that any message from the DEA to
18 date had been unclear?

19 MS. HENN: Objection to form.
20 Outside the scope.

21 THE WITNESS: Have I seen
22 formal documentation where somebody
23 said DEA was unclear?

24 QUESTIONS BY MR. FARRELL:

25 Q. That was my question, yes.

1 A. I have not seen any of that
2 documentation.

[illegible]

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13 (McKesson-Hartle Exhibit 19

14 marked for identification.)

15 QUESTIONS BY MR. FARRELL:

16 Q. We'll mark as 19, top
17 right-hand corner is 2007_5_15, Bates-stamped
18 MCKMDL00337303.

19 Is this, in fact, the Lifestyle
20 Drug Monitoring Program at McKesson?

21 A. Yes.

22 Q. Do you recognize this document
23 as a true and authentic version of the
24 Lifestyle Drug Monitoring Program?

25 A. I do.

1 Q. And is it a document kept in
2 the regular course of business and produced
3 by your lawyers in this litigation?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yeah.

6 QUESTIONS BY MR. FARRELL:

■ ■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]
■ ■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]

18 (McKesson-Hartle Exhibit 20
19 marked for identification.)

20 QUESTIONS BY MR. FARRELL:

21 Q. Exhibit 20, top right-hand
22 corner, 2007_06_12, Bates-stamped
23 MCKMDL00355527.

24 I'll represent to you again,
25 this was produced by your counsel in this

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The categories are not labeled, but the bars represent data points for each category.

Category	Percentage
1	25%
2	80%
3	10%
4	85%
5	70%
6	60%
7	40%
8	65%
9	80%
10	80%
11	85%
12	40%
13	80%
14	75%
15	45%
16	30%
17	55%
18	55%
19	80%
20	60%

[illegible]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Q. Right.

12 (McKesson-Hartle Exhibit 21
13 marked for identification.)

14 QUESTIONS BY MR. FARRELL:

15 Q. Next document is 21. Top
16 right-hand corner, 2007_11_26. This is a
17 February 2008 PowerPoint presentation
18 entitled "Controlled Substance Monitoring
19 Program, CSMP, Implementation Strategy -
20 Regulatory Review Document."

21 Have you seen this document
22 before?

23 A. I don't believe I've seen this
24 document.

25 Q. All right.

1 A. No.

2 Q. It's my understanding that the
3 CSMP was going to replace the Lifestyles
4 program?

5 A. Correct.

6 Q. And this document is talking
7 about in March of 2008 you're going to be
8 implementing pilot programs and then rolling
9 it across the country?

10 MS. HENN: Objection to form.

█ [REDACTED]

█ [REDACTED] █ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

16 A. Can I finish reading this?

17 Q. Sure.

18 A. Pretty quickly. Thank you.

19 Okay. Thank you.

20 Q. Yeah.

21 So you agree with what I said?

22 A. You'll need to restate whatever
23 you said.

█ [REDACTED] █ [REDACTED]

█ [REDACTED]

The figure is a horizontal bar chart with 100 rows. Each row contains a small square icon on the left and a horizontal bar representing a percentage. The bars are of varying lengths, indicating different percentage values for each category. The categories are listed on the left side of the chart, but the text is mostly illegible due to blurring. The bars are colored in a light gray or blue shade.

[REDACTED]

22 (McKesson-Hartle Exhibit 23

23 marked for identification.)

24 QUESTIONS BY MR. FARRELL:

25 Q. Next document, Exhibit 23,

1 2007_12_27, Bates stamp MCKMDL00478910. This
2 is the December 27, 2007 Rannazzisi letter.

3 Do you recognize this document?

4 A. I do.

5 Q. McKesson Corporation
6 acknowledges receipt of this communication
7 from the DEA dated December 27, 2007,
8 correct?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes, we received
11 it.

12 QUESTIONS BY MR. FARRELL:

13 Q. This is a true and authentic
14 version of the McKesson letter?

15 A. I believe so.

16 Q. And you kept it in the routine
17 business of collecting records,
18 record-keeping at McKesson?

19 A. I can't speak to where this was
20 stored and -- I don't know, but --

21 Q. But it came from McKesson; it's
22 got your Bates stamp on it?

23 A. I may be a little confused on
24 your question.

25 Q. I just want you to validate --

1 A. It came us.

2 Q. You're just acknowledging you
3 received this letter?

4 A. Correct.

5 Q. All right. We can walk through
6 this entire letter, but I'm going to first
7 start broadly.

8 Does McKesson acknowledge that
9 the facts and guidelines set forth in the
10 2007 Rannazzisi letter are true and an
11 accurate representation of the obligations
12 McKesson has under federal law?

13 MS. HENN: Objection to form.

14 THE WITNESS: Can you ask that
15 question again?

16 QUESTIONS BY MR. FARRELL:

17 Q. Yeah.

18 This is the second time the DEA
19 is writing a dear registrant letter to
20 everybody in the country.

21 A. Understood.

22 Q. Basically what it's saying is,
23 you people still aren't getting it; here's
24 what your obligations are under federal law.

25 And it includes the duty to

1 halt suspicious orders, perform due diligence
2 and report when necessary to the DEA, agreed?

3 MS. HENN: Objection to form.

4 QUESTIONS BY MR. FARRELL:

5 Q. Could it be any clearer?

6 MS. HENN: Objection to form.

7 THE WITNESS: It's the same
8 information they've shared before,
9 with some additions.

10 QUESTIONS BY MR. FARRELL:

11 Q. And it's clear, you have a duty
12 to halt suspicious orders, perform due
13 diligence and report when necessary.

14 This is an affirmation a decade
15 preceding the shipping requirement and the
16 reporting requirement in the Masters
17 Pharmaceutical case, agreed?

18 MS. HENN: Objection to form.

19 THE WITNESS: You rolled a
20 couple things in there together. Can
21 you ask me -- what's the specific
22 question?

23 QUESTIONS BY MR. FARRELL:

24 Q. This is a 2007 letter, which
25 predates the Masters Pharmaceutical case by a

1 decade. And I'm asking you whether or not
2 you agree that this letter sets forth the
3 shipping requirements and the reporting
4 requirements as outlined in Masters
5 Pharmaceutical.

6 MS. HENN: Objection to form.

7 THE WITNESS: I'm going to read
8 this again just so --

9 QUESTIONS BY MR. FARRELL:

10 Q. Sure.

11 The second to the last
12 paragraph is probably the most helpful.

13 A. What's that?

14 Q. The second to last paragraph
15 may be the most helpful.

16 A. On the very last -- okay.

17 Before I get there --

18 Q. It states, "Lastly, registrants
19 that routinely report suspicious orders, yet
20 fill these orders without first determining
21 that order is not being diverted, may be
22 failing to maintain effective controls
23 against diversion."

24 It's what you and I have been
25 talking about for the last two hours,

1 correct?

2 A. Correct.

3 Q. This is an accurate statement
4 of federal law from the DEA to McKesson,
5 agreed?

6 MS. HENN: Objection to form.

7 THE WITNESS: Agreed.

8 QUESTIONS BY MR. FARRELL:

9 Q. This is the same thing the DC
10 Circuit Court of Appeals said in 2017,
11 agreed?

12 MS. HENN: Objection to form.

13 THE WITNESS: Agreed.

14 QUESTIONS BY MR. FARRELL:

15 Q. I don't need to put this in
16 there. But backing up to the last exhibit we
17 had from February of 2008, can you pull that
18 up?

19 MS. HENN: You talking about
20 Exhibit 21?

21 MR. FARRELL: Yes.

22 QUESTIONS BY MR. FARRELL:

23 Q. I'm going to represent to you
24 that the way that we pull these documents up
25 on the electronic system is you can pull it

1 up in a -- basically a photocopy version like
2 you're seeing here, but there's also a native
3 format, which is actually the PowerPoint.

4 A. Okay.

5 Q. And so what I'm showing you on
6 the screen is the same exact document, and
7 the only reason I produced it in native
8 format is that at the very bottom of each of
9 the pages, except for the first one, there's
10 a date.

11 MR. FARRELL: So if you flip to
12 the next page on the screen up there,
13 Corey.

14 MS. HENN: Do you want to just
15 hand the copy over --

16 MR. FARRELL: Yeah.

17 MS. HENN: -- if that's easier?

18 MR. FARRELL: I just want you
19 to affirm the date on it.

20 MS. HENN: And do you have like
21 an identifier? I know for these kinds
22 of native documents --

23 MR. FARRELL: Not that I can
24 figure out. I'm not that good.

25 MS. HENN: All right.

1 THE WITNESS: So what do you
2 need me to do? What are you asking?

3 QUESTIONS BY MR. FARRELL:

4 Q. What the date is.

5 A. On the front page?

6 Q. On the color version, on page 2
7 maybe.

8 A. Oh, on the bottom? 11/26 of
9 '07. November 26, 2007.

10 (McKesson-Hartle Exhibit 24
11 marked for identification.)

12 QUESTIONS BY MR. FARRELL:

13 Q. Okay. The next exhibit is
14 going to be Exhibit 24. It's 2008_03_10.
15 It's another PowerPoint presentation at the
16 Denver sales meeting, March 10, 2008.

17 Have you seen this document
18 before?

19 A. I do not believe I've seen this
20 one.

21 Q. It has a bunch of redacted
22 stuff in here.

23 MR. FARRELL: Counsel, do you
24 know if that was recorded in the
25 privilege log?

1 MS. HENN: I don't know off the
2 top of my head, but we can certainly
3 check.

4 MR. FARRELL: I think that's
5 the main reason. It basically is
6 talking about your CSMP, the
7 three-level review, and the rollout
8 with a bunch of stuff redacted. I
9 just wanted to put it in the record so
10 we can fool with it later.

11 MS. HENN: Is this a good --
12 the witness would like a break.

13 MR. FARRELL: Sure.

14 MS. HENN: Could we just maybe
15 pause for just five minutes?

16 MR. FARRELL: Yep.

17 VIDEOGRAPHER: The time is
18 3:08 p.m. We're going off the record.

19 (Off the record at 3:08 p.m.)

20 VIDEOGRAPHER: The time is
21 3:16 p.m. We're back on the record.

22 (McKesson-Hartle Exhibit 25
23 marked for identification.)

24 QUESTIONS BY MR. FARRELL:

25 Q. We'll mark Exhibit 25. It's a

1 2008_05_02, Bates stamp MCKMDL00355561.

2 Do you recognize this document?

3 A. I do.

4 Q. What is it?

5 A. It's the settlement agreement
6 from 2008.

7 Q. Between?

8 A. Between McKesson and the DEA,
9 DOJ.

10 Q. Settling what?

11 A. Settling allegations of things
12 related to our responsibilities as a
13 distributor.

14 Q. Right.

15 So you'll forgive me for
16 spending so much time for the last several
17 hours building up to the duties and
18 responsibilities under the federal
19 regulations, leading up to May 2, 2008, where
20 you signed a memorandum -- administrative
21 memorandum of agreement paying a \$13 million
22 fine for allegedly violating all of those
23 rules we've been discussing.

24 MS. HENN: Objection to form.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. And I'll acknowledge on page 2
3 the middle whereas clause that McKesson
4 denied doing anything wrong.

5 Sitting here today, McKesson
6 continue to assert that it did nothing wrong
7 despite the fact that it paid a fine in 2008?

8 MS. HENN: Objection to form.

9 THE WITNESS: We do. I believe
10 we were in good faith working with DEA
11 and denied the allegations.

12 QUESTIONS BY MR. FARRELL:

13 Q. So you deny you did anything
14 wrong. You deny you broke the law?

15 MS. HENN: Objection to form.

16 THE WITNESS: I stand behind
17 what's in this document.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, you weren't at McKesson,
20 but you're sitting here as McKesson, so
21 you're taking the position that's in the
22 document: We didn't do anything wrong.

23 But you acknowledge that at
24 least in 2008 the DEA -- it's beyond doubt
25 now what the DEA could possibly mean when

1 they want you to fulfill your obligations
2 under federal law, agreed?

3 MS. HENN: Objection to form.

4 THE WITNESS: It is beyond
5 doubt -- can you say that again?
6 Rephrase it?

7 QUESTIONS BY MR. FARRELL:

8 Q. I can rephrase it, yes.

9 A. Yeah.

10 Q. I'm trying to establish whether
11 or not McKesson Corporation believes as of
12 May 2, 2008, the DEA could be any clearer
13 about its expectations of McKesson
14 Corporation under the federal regulations
15 related to the distribution of opium pills.

16 MS. HENN: Objection to form.
17 Outside the scope.

18 QUESTIONS BY MR. FARRELL:

19 Q. I can walk through all of the
20 various communications leading up to this,
21 but you'll agree with me there was a 2006
22 letter, a 2007 letter, there were
23 presentations, there were meetings, there was
24 a rule to show cause, there's a settlement
25 agreement, you got fined \$13 million.

1 Nobody, no reasonable person,
2 could say that the DEA failed to tell
3 McKesson what the rules of the road were.

4 MS. HENN: Objection to form.
5 Outside the scope.

6 THE WITNESS: I agree that they
7 mentioned that in many -- in many ways
8 and many times. There's still -- you
9 know, there are areas of the
10 regulation that are still unclear, and
11 DEA does not provide clear guidance on
12 what is an order of unusual size,
13 frequency and pattern. They put that
14 back on the distributors to design our
15 own.

16 So they're not -- they're clear
17 on that guidance, but not on how to do
18 it all the time.

19 QUESTIONS BY MR. FARRELL:

20 Q. All right. So it's clear in
21 2008 what they're telling the DEA -- telling
22 McKesson is that whatever you're doing, we
23 think it's not enough?

24 MS. HENN: Objection to form.

25 THE WITNESS: It's clear that

1 that's what they were alleging.

2 QUESTIONS BY MR. FARRELL:

3 Q. And one of the things that's
4 clear is that you have a duty to halt
5 suspicious orders and perform due diligence.

6 Is there any reasonable person
7 in the United States of America as of 2008
8 could possibly argue that it's unclear
9 whether or not you should halt a suspicious
10 order before shipping?

11 MS. HENN: Objection to form.

12 THE WITNESS: I can't speak for
13 all reasonable people in the US.

14 QUESTIONS BY MR. FARRELL:

15 Q. Well, what if somebody came up
16 and said, "We don't know whether or not we
17 have a duty to halt before shipping a
18 suspicious order," what you say to them as of
19 May 2, 2008, on the heels of paying
20 \$13 million to the DEA?

21 MS. HENN: Objection to form.

22 Outside the scope.

23 THE WITNESS: Can you ask that
24 again?

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Yes.

3 Would you be a moron if you
4 took the position out of May 2, 2008, that
5 the DEA was unclear as to whether or not you
6 could ship a suspicious order?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 THE WITNESS: I wouldn't call
10 anybody a moron, but it's clear what
11 they expect.

12 QUESTIONS BY MR. FARRELL:

13 Q. And they expect what?

14 A. To design and operate a system
15 to disclose suspicious orders.

16 Q. And?

17 MS. HENN: Objection to form.

18 THE WITNESS: And report.

19 QUESTIONS BY MR. FARRELL:

20 Q. And?

21 MS. HENN: Same objection.

22 QUESTIONS BY MR. FARRELL:

23 Q. Is it clear whether or not you
24 can ship a suspicious order without
25 conducting due diligence?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: I think it
4 depends. It's -- there are other
5 types of suspicious order systems.

6 QUESTIONS BY MR. FARRELL:

7 Q. I understand. I'm just trying
8 to take it from a very basic standpoint.

9 Could the DEA have made it any
10 clearer that McKesson has a duty to monitor
11 and detect suspicious orders?

12 MS. HENN: Objection to form.

13 Outside the scope.

14 THE WITNESS: To monitor and
15 detect suspicious orders.

16 QUESTIONS BY MR. FARRELL:

17 Q. That's what it says.

18 A. Very clear.

19 Q. Could they have been any
20 clearer that if you get a suspicious order,
21 you can't just ship it?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: That's clear.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Clear or very clear?

3 MS. HENN: Objection to form.

4 THE WITNESS: It's very clear.

5 QUESTIONS BY MR. FARRELL:

6 Q. Can you report the suspicious
7 order to the DEA and still ship it?

8 MS. HENN: Objection to form.
9 Outside the scope.

10 THE WITNESS: Can you ask that
11 one again or restate it?

12 QUESTIONS BY MR. FARRELL:

13 Q. Can you report the suspicious
14 order to the DEA and still ship it?

15 MS. HENN: Same objections.

16 THE WITNESS: Without due
17 diligence or some sort of review?

18 QUESTIONS BY MR. FARRELL:

19 Q. If you're reporting a
20 suspicious order to the DEA, what are you
21 doing?

22 MS. HENN: Objection to form.

23 THE WITNESS: Okay. Can we
24 start with the original question? I'm
25 getting a little -- I want to make

1 sure I'm going to answer your question
2 right --

3 QUESTIONS BY MR. FARRELL:

4 Q. Yeah, I'm going to show you --

5 A. -- the right question.

6 Q. I'm going to show you here in a
7 few minutes some of your brethren who still
8 haven't gotten the message by May 2008, and
9 I'm trying to see if you'll call them morons.

10 So what I'm asking you is from
11 McKesson's corporation, is it clear by May 2,
12 2008, you -- the shipping requirement and the
13 reporting requirement?

14 MS. HENN: Objection to form.
15 Outside the scope.

16 THE WITNESS: That's how we
17 designed our program, and that's what
18 we believed it to be.

19 QUESTIONS BY MR. FARRELL:

20 Q. Based on federal law?

21 MS. HENN: Objection to form.

22 THE WITNESS: Based on the
23 regulations and the guidance and the
24 information we collected.

25 (McKesson-Hartle Exhibit 26

1 marked for identification.)

2 QUESTIONS BY MR. FARRELL:

3 Q. I'll mark Exhibit 26. Top
4 right is 2008_07_031. It's Bates stamp
5 MCK-HOI-002-0000042.

6 Have you seen this document
7 before?

8 A. Yes, I have.

9 Q. And what is it?

10 A. This is a PowerPoint.

11 Q. Made by who?

12 A. By McKesson.

13 Q. For purposes of?

14 A. Discussion with DEA.

15 Q. Regarding?

16 A. Our controlled substance
17 monitoring program.

18 Q. And it's dated when?

19 A. It's dated July 31, 2008.

20 Q. So this is before or after your
21 settlement agreement with the DEA?

22 A. Shortly after.

23 Q. So that must have been kind of
24 awkward, right, your coming in after paying
25 the fine?

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. The more pills that get
13 diverted, what happens?

14 MS. HENN: Objection to form.

15 THE WITNESS: You can assume
16 that there's more abuse.

17 QUESTIONS BY MR. FARRELL:

18 Q. Do you believe there's a direct
19 correlation between the more pills that get
20 sold and the more pills that get diverted?

21 MS. HENN: Objection to form.

22 THE WITNESS: Can you rephrase
23 that question?

24 QUESTIONS BY MR. FARRELL:

25 Q. Yes.

1 Is there a relationship between
2 the number of pills that get sold and the
3 number of pills that get diverted?

4 MS. HENN: Objection to form.

5 THE WITNESS: It's hard to say,
6 but you could assume that the -- you
7 know --

8 QUESTIONS BY MR. FARRELL:

9 Q. I don't want you to assume.

10 A. Yeah.

11 Q. I want you to use common sense.

12 A. Yeah. Using common sense and
13 basic logic, you could assume the more pills
14 that are out there, the more potential for
15 diversion there could be.

16 Q. So if I were to tell you that a
17 company sold 100 pills and 10 of them got
18 diverted, and then I come back to you and say
19 a year later, a thousand pills got sold, what
20 does common sense and logic tell you as
21 McKesson Corporation how many pills get
22 diverted?

23 MS. HENN: Objection to form.

24 THE WITNESS: I don't think
25 it's that easy of a connection to say

1 that happened. There could be many
2 different reasons why a thousand
3 pills -- there may be an increase of a
4 thousand pills with zero diversion.

5 QUESTIONS BY MR. FARRELL:

6 Q. That's true.

7 Do you expect as McKesson
8 Corporation to find in general a direct
9 correlation to volume of pills sold and
10 volume of pills diverted?

11 MS. HENN: Objection to form.

12 Outside the scope.

13 THE WITNESS: Depends. I don't
14 know if there's a statistic on how
15 many pills are diverted. Again,
16 there's reasons why you may have very
17 large volumes of pills for legitimate
18 reasons and there may be zero
19 diversion.

20 QUESTIONS BY MR. FARRELL:

21 Q. That's true. Let me ask it a
22 different way.

23 Do you believe it's foreseeable
24 that the more pills you sell, the more pills
25 get diverted?

1 MS. HENN: Objection to form.

2 THE WITNESS: I would say that
3 there -- that, you know, the volume
4 of -- the more pills you have, there
5 could be, could be more to diversion.
6 It doesn't mean that there is. Or I
7 would foresee that just an increase in
8 volume is going to increase diversion.
9 There could be.

10 QUESTIONS BY MR. FARRELL:

11 Q. The more pills that are
12 diverted -- let me ask you a different way.

13 A. Okay.

14 Q. Does McKesson believe that the
15 more pills that get diverted, the more pills
16 get abused?

17 MS. HENN: Objection to form.
18 Outside the scope.

19 THE WITNESS: Sorry, could you
20 rephrase that one again? Let me --

21 QUESTIONS BY MR. FARRELL:

22 Q. As McKesson Corporation, do you
23 acknowledge that the more pills that get
24 diverted, the more pills get abused?

25 MS. HENN: Same objections.

1 THE WITNESS: Again, I'd say
2 what I said previously: It could --
3 that could be a possibility. It
4 depends, but...

5 QUESTIONS BY MR. FARRELL:

6 Q. Are people diverting pills to
7 engage in lawful conduct?

8 MS. HENN: Objection to form.

9 THE WITNESS: I don't know why
10 everybody is diverting pills every
11 single time, but generally, no.

12 QUESTIONS BY MR. FARRELL:

13 Q. Right.

14 So in general, the more pills
15 that gets diverted, the more abuse and
16 addiction we find with prescription opium
17 pills?

18 A. There's that possibility.

19 (McKesson-Hartle Exhibit 27
20 marked for identification.)

21 QUESTIONS BY MR. FARRELL:

22 Q. I'm going to have marked what
23 is Deposition Exhibit 27. The top right-hand
24 corner is 2012_5_9.

25 This is an amicus brief.

1 Do you know what an amicus
2 brief is?

3 A. I do not. I do not have legal
4 background.

5 Q. Okay. McKesson Corporation is
6 a member of the Healthcare Distributors and
7 Manufacturers Association, now known as the
8 Healthcare Distributors Association, agreed?

9 A. Healthcare Distributors
10 Management Association?

11 Q. Management, I'm sorry, yes.

12 A. Yes.

13 Q. Okay. And on May 9, 2012,
14 Cardinal Health had gotten itself into a
15 little trouble with the DEA, hadn't it?

16 MS. HENN: Objection to form.

17 THE WITNESS: I'm aware of that
18 time frame and...

19 QUESTIONS BY MR. FARRELL:

20 Q. They got in trouble with the
21 DEA, very similar to how McKesson got in
22 trouble with the DEA in 2008, agreed?

23 MS. HENN: Objection to form.

24 THE WITNESS: I haven't
25 reviewed this document or all the

1 details, but in spirit, in general.

2 QUESTIONS BY MR. FARRELL:

3 Q. So in -- on May 9th of 2012,
4 HDMA, the Healthcare Distribution Management
5 Association, wrote a brief to a federal court
6 here in Washington, DC, in support of
7 Cardinal Health and against the DEA.

8 Was McKesson Corporation aware
9 of this amicus brief?

10 MS. HENN: Objection to form.
11 Outside the scope.

12 MR. FARRELL: It's actually
13 not. It's actually referenced
14 directly in the notice.

15 MS. HENN: I'm not sure that's
16 the case, but we can disagree about
17 that.

18 THE WITNESS: I don't know for
19 100 percent certain, but I assume so.

20 QUESTIONS BY MR. FARRELL:

21 Q. Well, I don't want you to
22 guess. This is relatively important.

23 Have you seen any
24 acknowledgement within McKesson Corporation
25 validating or affirming or reviewing or

1 participating in this amicus brief?

2 A. I have not.

3 Q. Are you aware of McKesson being
4 involved at all in the amicus briefs?

5 MS. HENN: Objection to form.

6 THE WITNESS: I'm not.

7 (McKesson-Hartle Exhibit 28
8 marked for identification.)

9 QUESTIONS BY MR. FARRELL:

10 Q. I'm going to have marked
11 Exhibit 28, 2012_05_05.

12 Are you aware of the Wayback
13 Machine?

14 A. Excuse me?

15 Q. Are you aware of the Wayback
16 Machine?

17 A. I am not.

18 Q. The Wayback Machine is an
19 Internet service that's free, and what it
20 does is it's able to go and bring up old
21 websites based on dates and time.

22 And it just so happens that the
23 Wayback Machine captured the HDMA website in
24 May of 2012. This comes from the HDMA
25 website, and this is a list of the board of

1 directors.

2 Now, what's an executive
3 committee on a board of directors?

4 MS. HENN: Objection to form.

5 Outside the scope.

6 THE WITNESS: That's the senior
7 leaders driving this group.

8 QUESTIONS BY MR. FARRELL:

9 Q. And, Mr. McKesson Corporation,
10 you were on the executive committee of HDMA
11 of 2012, were you not?

12 MS. HENN: Objection to form.

13 Outside the scope.

14 THE WITNESS: One of our senior
15 leaders is.

16 QUESTIONS BY MR. FARRELL:

17 Q. You're in the senior leadership
18 of HDMA, and you signed off on an amicus
19 brief submitted to a federal court in
20 Washington, DC, in support of one of your
21 colleagues and members, Cardinal Health.

22 MS. HENN: Objection to form.

23 Outside the scope.

24 QUESTIONS BY MR. FARRELL:

25 Q. So I'm going to ask you a

1 couple of questions about it.

2 A. Okay.

3 Q. If you flip to page 3...

4 A. Of the brief?

5 Q. Of the brief.

6 The very bottom of the page --

7 MS. HENN: Are you talking

8 about the Bates numbers or the --

9 MR. FARRELL: Yeah, the Bates
10 number.

11 MS. HENN: Thank you.

12 QUESTIONS BY MR. FARRELL:

13 Q. It says, "HDMA's members have
14 not only statutory and regulatory
15 responsibilities to detect and prevent
16 diversion of controlled prescription drugs,
17 but undertake such efforts as responsible
18 members of society."

19 Do you see that?

20 A. I do.

21 Q. Do you recognize this as an
22 acknowledgement that all of the distributors
23 in the country have a common law duty to the
24 people of the United States of America to
25 prevent diversion of controlled substances

1 because you're selling controlled substances?

2 MR. SUDDATH: Objection.

3 MS. HENN: Objection to form.

4 Outside the scope.

5 THE WITNESS: Okay. Could you
6 ask me that again?

7 QUESTIONS BY MR. FARRELL:

8 Q. Do you recognize this as an
9 acknowledgement that all of the distributors
10 in the country have a common law duty to the
11 American citizens to prevent controlled
12 substances from being diverted into the
13 illicit market?

14 MR. SUDDATH: Objection.

15 MS. HENN: Objection to form.

16 Outside the scope.

17 QUESTIONS BY MR. FARRELL:

18 Q. I mean, isn't this what we
19 talked about earlier?

20 A. I do.

21 Q. You do, don't you? Yes?

22 A. Yes.

23 Q. Because it's not just
24 statutory, regulatory. You're engaged in
25 selling opium pills. You owe a duty to the

1 American people to do your very best to
2 prevent diversion.

3 MS. HENN: Objection to form.
4 Outside the scope.

5 QUESTIONS BY MR. FARRELL:

6 Q. Agreed?

7 A. Agreed.

8 Q. And this is your trade
9 organization making the same representation
10 to a federal court in Washington, DC?

11 MS. HENN: Same objections.
12 Objection to form. Outside the scope.

13 THE WITNESS: Yes.

14 QUESTIONS BY MR. FARRELL:

15 Q. Next sentence: "The public
16 health dangers associated with the diversion
17 and abuse of controlled prescription drugs
18 have been well-recognized over the years by
19 Congress, DEA, HDMA and its members, and
20 public health authorities."

21 Is that all true?

22 MS. HENN: Objection to form.
23 Outside the scope.

24 THE WITNESS: Yes.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. The next sentence. This is the
3 part that I'd like to talk to you about, the
4 highlighted part. "The agency," meaning DEA,
5 "has failed to provide meaningful guidance to
6 assist the regulated industry in complying
7 with the DEA's interpretation of its
8 implementing regulations. HDMA respectfully
9 submits that despite the agency's oft-recited
10 refrain that the regulations are clear, the
11 regulated industry does not know the rules of
12 the road because DEA has not adequately
13 explained them."

14 McKesson has said the opposite
15 publicly and to its own people, agreed?

16 MS. HENN: Object to form.

17 QUESTIONS BY MR. FARRELL:

18 Q. Remember the slide that said
19 clear? Remember your testimony about the
20 letters and the settlement agreement? You
21 said a few minutes ago it was clear.

22 A. I do remember all of that. I
23 also --

24 MS. HENN: Object to form.

25 Go ahead.

1 THE WITNESS: Oh, excuse me.

2 I also remember saying that
3 certain parts of those regulations
4 related to what a suspicious order is
5 is not clear.

6 QUESTIONS BY MR. FARRELL:

7 Q. Page 7. "The societal costs of
8 prescription drug abuse are" -- what's it
9 say?

10 A. I flipped to the wrong page.
11 Excuse me.

12 "Huge."

13 Q. And if a distributor engages in
14 unlawful conduct, should the distributor be
15 held accountable for such societal costs?

16 MS. HENN: Objection to form.
17 Outside the scope.

18 THE WITNESS: Can you repeat
19 that, please?

20 QUESTIONS BY MR. FARRELL:

21 Q. If a wholesale distributor
22 engages in unlawful conduct, should it be
23 held accountable for the societal costs of
24 prescription drug abuse?

25 MR. SUDDATH: Objection.

1 MS. HENN: Same objections.

2 THE WITNESS: I believe

3 distributors have a responsibility in

4 preventing diversion.

5 QUESTIONS BY MR. FARRELL:

6 Q. So should they be held

7 accountable for the societal costs that are

8 documented in this pleading and referenced as

9 huge?

10 A. I think it depends.

11 MS. HENN: Objection to form.

12 QUESTIONS BY MR. FARRELL:

13 Q. Depends on what?

14 MS. HENN: Same objection.

15 Go ahead.

16 THE WITNESS: It depends on the

17 facts and circumstances and, you know,

18 the information about the specific

19 situation.

20 QUESTIONS BY MR. FARRELL:

21 Q. If a distributor repeatedly

22 fails to report suspicious orders, do you

23 believe it should be held accountable for the

24 societal costs of prescription drug abuse?

25 MR. SUDDATH: Objection.

1 MS. HENN: Objection to form.

2 THE WITNESS: And I believe it
3 depends.

4 QUESTIONS BY MR. FARRELL:

5 Q. On?

6 A. The facts and circumstances.

7 Q. How about the facts and
8 circumstances which led to McKesson paying
9 \$150 million fine?

10 MS. HENN: Objection to form.

11 THE WITNESS: Again, I think it
12 depends.

13 QUESTIONS BY MR. FARRELL:

14 Q. Do you think McKesson is partly
15 responsible for the societal costs of
16 prescription drug abuse in America?

17 MS. HENN: Objection to form.

18 THE WITNESS: Could you ask
19 that one again, please?

20 QUESTIONS BY MR. FARRELL:

21 Q. Do you think McKesson is partly
22 responsible for the societal costs of
23 prescription drug abuse in America?

24 MS. HENN: Objection to form.

25 THE WITNESS: Again, there's a

1 lot of people involved in -- it's a
2 very complicated and multi-faceted
3 issue, so...

4 QUESTIONS BY MR. FARRELL:

5 Q. We'll get to the other people
6 in a second.

7 MS. HENN: Are you done with
8 your answer?

9 THE WITNESS: I am done.

10 MS. HENN: Okay.

11 QUESTIONS BY MR. FARRELL:

12 Q. We'll get to the others in a
13 second. I want to talk about McKesson first.

14 This is your opportunity to
15 accept partial responsibility for the
16 societal costs of prescription drug abuse in
17 America; yes or no?

18 MS. HENN: Objection to form.

19 Also outside the scope.

20 THE WITNESS: So again, it
21 depends on -- it depends.

22 QUESTIONS BY MR. FARRELL:

23 Q. You're McKesson Corporation.

24 A. Right.

25 Q. You're sitting here today. You

1 have the opportunity to look in the camera
2 and tell the jury whether or not you accept
3 partial responsibility for the societal costs
4 of prescription drug abuse in America.

5 MS. HENN: Objection to form.

6 Outside the scope.

7 QUESTIONS BY MR. FARRELL:

8 Q. I'd ask you to answer yes or
9 no.

10 MS. HENN: Same objections.

11 THE WITNESS: I'm not sure how
12 to answer that -- that question
13 specifically.

14 QUESTIONS BY MR. FARRELL:

15 Q. Well, you can say yes or --

16 A. I understand that.

17 Q. -- you can say no.

18 A. I understand that.

19 MS. HENN: Objection to form.

20 QUESTIONS BY MR. FARRELL:

21 Q. If I asked you the same
22 question in your personal capacity, would
23 that help you answer the question better?

24 MS. HENN: Same objection.

25 Objection to form.

1 THE WITNESS: Again, it
2 depends -- I would say it doesn't
3 change my answer. It depends on the
4 role that they played.

5 QUESTIONS BY MR. FARRELL:

6 Q. Well, back to McKesson
7 Corporation, which is you sitting in the
8 chair today. Knowing what you know as the
9 30(b)(6) representative, the corporate
10 designee, knowing about your past conduct,
11 knowing about the past interactions with the
12 DEA, I'm going to ask you again: Does
13 McKesson Corporation accept partial
14 responsibility for the societal costs of
15 prescription drug abuse in America?

16 MS. HENN: Objection to form.

17 THE WITNESS: Again, you know,
18 I -- we're part of the closed system,
19 so we're responsible for preventing
20 diversion.

21 QUESTIONS BY MR. FARRELL:

22 Q. So the answer is?

23 MS. HENN: Objection to form.

24 THE WITNESS: Again, I think
25 we're responsible for something. I

1 don't know what -- how you define all
2 societal costs and -- I still believe
3 it depends on different circumstances.

4 QUESTIONS BY MR. FARRELL:

5 Q. Sir, we're not going to parse
6 out percentages.

7 A. Yeah.

8 Q. Let's just talk globally for
9 McKesson Corporation. So I don't want to put
10 words in your mouth because it's got to come
11 out of your mouth. So the answer is yes or
12 no.

13 MS. HENN: Objection to form.

14 THE WITNESS: I would say yes,
15 partially.

16 QUESTIONS BY MR. FARRELL:

17 Q. How about Purdue Pharma? Does
18 McKesson Corporation take the position that
19 Purdue Pharma is partially responsible for
20 the societal costs of prescription drug abuse
21 in America?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: I'm not going to
25 answer for other companies. I'm --

1 it's like I answered my question:

2 Those involved in this space,

3 depending on the facts and

4 circumstances, may be. So, yes.

5 QUESTIONS BY MR. FARRELL:

6 Q. Flip to page 8, the last

7 paragraph. Your trade organization is saying

8 that the "DEA's goal, the prevention of

9 diversion of controlled prescription drugs,

10 is, of course, a public good."

11 Does McKesson validate,

12 acknowledge and affirm that statement?

13 MS. HENN: Objection to form.

14 THE WITNESS: Absolutely. The

15 prevention of the diversion of

16 controlled substances is good for the

17 public.

18 (McKesson-Hartle Exhibit 29

19 marked for identification.)

20 QUESTIONS BY MR. FARRELL:

21 Q. Next exhibit I'm going to have

22 marked is Exhibit 29. It's Exhibit

23 2013_09_13. It's Bates stamp

24 MCK-AGMS-006000880.

25 Have you seen this document?

1 A. I have not.

2 Q. Do you know who Gary Boggs is?

3 A. I do know Gary.

4 Q. I'll represent to you that on
5 the metadata that was provided by the --
6 McKesson, indicates that this presentation is
7 dated in late 2012 -- wait, late 2013, I
8 think, probably before Gary Boggs came on to
9 McKesson. We'll ask him when we depose him.

10 But anyway, this is a McKesson
11 spreadsheet from Gary Boggs. Gary Boggs is
12 former DEA.

13 A. PowerPoint, not spreadsheet.

14 Q. Yeah, I'm sorry.

15 A. Okay.

16 Q. He's former DEA, correct?

17 A. Correct.

18 Q. He was the number 2 man on Joe
19 Rannazzisi, yes?

20 A. Yes.

21 Q. And as we'll see later, he was
22 actually in the room for one of the
23 presentations when DEA was negotiating with
24 McKesson on the 2008 settlement.

25 Is that your memory as a

1 corporate entity?

2 MS. HENN: Objection to form.

3 THE WITNESS: I wasn't aware
4 that he was specifically in the room,
5 but...

6 QUESTIONS BY MR. FARRELL:

7 Q. The title of this PowerPoint
8 slide is what?

9 A. Oh, "State of prescription drug
10 abuse."

11 Q. And on the second page, talks
12 about the impact of effective compliance.
13 And it uses lots of America-related stuff,
14 eagles and flags and such.

15 Do you see that?

16 A. I do see that.

17 Q. "Protecting America from
18 Prescription Drug Diversion."

19 The next page is a history of
20 understanding the problem, and on page 4 it
21 talks about a collision course.

22 And presumably this is two
23 planes colliding in the air, and that's
24 OxyContin and Percocet.

25 Do you see that?

1 MS. HENN: Objection to form.

2 THE WITNESS: I see that.

3 QUESTIONS BY MR. FARRELL:

4 Q. "In the late 1990s, doctors
5 aggressively prescribing painkillers - a
6 radical change in health care behavior."

7 And that radical change in
8 health care behavior did what to the number
9 of prescriptions?

10 MS. HENN: Objection to form.

11 THE WITNESS: Increased them.

12 QUESTIONS BY MR. FARRELL:

13 Q. Which resulted in an increase
14 or decrease in the number of pills McKesson
15 sold?

16 A. I don't know exact numbers, but
17 it increased.

18 Q. And then the last part,
19 "Manufacturers fueled the use of prescription
20 painkillers."

21 This is coming from your new
22 head of regulatory affairs at McKesson,
23 agreed?

24 MS. HENN: Objection to form.

25 THE WITNESS: Can you say that

1 again?

2 QUESTIONS BY MR. FARRELL:

3 Q. Yeah.

4 A. He's not -- he wasn't the head
5 of regulatory affairs.

6 Q. Then, but he is now?

7 A. He's one of the leaders on the
8 regulatory affairs team.

9 Q. Okay. And this is his
10 statement that "Manufacturers fueled the use
11 of prescription painkillers."

12 Is that McKesson's position?

13 MS. HENN: Objection to form.

14 THE WITNESS: I don't know if
15 that's his own specific words or he
16 got that from a previous deck from
17 DEA. I'm not sure.

18 QUESTIONS BY MR. FARRELL:

19 Q. We'll have to ask him.

20 But I'm asking McKesson whether
21 or not it shares this view.

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: Manufacturers are
25 part of the closed system, like -- and

1 played a role.

2 QUESTIONS BY MR. FARRELL:

3 Q. Does McKesson believe the
4 manufacturers fueled the use of prescription
5 painkillers?

6 MS. HENN: Objection to form.
7 Outside the scope.

8 THE WITNESS: I think they
9 played a role. I think there's many
10 reasons -- many things that fueled the
11 epidemic.

12 QUESTIONS BY MR. FARRELL:

13 Q. So would you rather just punt
14 on the question?

15 MS. HENN: Objection to form.

16 THE WITNESS: That's what I'm
17 going to share. That's my answer.

18 QUESTIONS BY MR. FARRELL:

19 Q. So yes or no, does McKesson
20 Corporation believe manufacturers fueled the
21 use of prescription painkillers?

22 MS. HENN: Objection to form.
23 Outside the scope.

24 THE WITNESS: Like I said,
25 my -- they're part of the system.

1 They played a role.

2 QUESTIONS BY MR. FARRELL:

3 Q. So the answer is?

4 A. They played a role. I wouldn't
5 say -- I wouldn't characterize it as fueled.
6 I don't know that I would use that language.

7 Q. Fair enough.

8 The next page, 5 and 6,
9 document Purdue Pharma's \$635 million fine,
10 Cephalon's \$425 million fine.

11 Going to page 7, it's comparing
12 the US rates of opioid overdose deaths, sales
13 and treatment admissions.

14 Do you see that?

15 A. I see that.

16 Q. What is the correlation between
17 opioid sales and opioid deaths? Are they
18 related or unrelated?

19 MS. HENN: Objection to form.

20 THE WITNESS: They're both
21 increasing at a similar rate.

22 QUESTIONS BY MR. FARRELL:

23 Q. So that means they're related
24 or unrelated?

25 MS. HENN: Objection to form.

1 THE WITNESS: They appear to be
2 related.

3 QUESTIONS BY MR. FARRELL:

4 Q. Does McKesson believe that
5 opioid sales are related to opioid deaths?

6 MS. HENN: Objection to form.
7 Outside the scope.

8 THE WITNESS: Can you ask that
9 one more time, please?

10 QUESTIONS BY MR. FARRELL:

11 Q. Does McKesson believe that
12 opioid sales are related to opioid deaths?

13 MS. HENN: Objection to form.
14 Outside the scope.

15 THE WITNESS: The volume of
16 opioids in the market and diversion is
17 related to opioid deaths, certainly.

18 QUESTIONS BY MR. FARRELL:

19 Q. Page 8, the Controlled
20 Substances Act, the very last provision says,
21 "Creates checks and balances between
22 registrants to protect the public health and
23 safety."

24 Again, this is again a
25 reaffirmation from Gary Boggs, who is now one

1 of your senior regulatory affairs management,
2 acknowledging that the registrants and the
3 DEA have a duty to protect the public health
4 and safety, agreed?

5 A. Agreed.

6 Q. Page 13. It says, "What can
7 happen when these checks and balances
8 collapse?"

9 What do you believe this is a
10 picture of?

11 MS. HENN: Objection to form.

12 THE WITNESS: It's a building
13 falling down.

14 QUESTIONS BY MR. FARRELL:

15 Q. A disaster?

16 A. It's a building that's falling
17 down. Why it fell down could be a disaster.

18 Q. What do you infer from
19 Mr. Boggs' implication?

20 A. That things can go wrong,
21 something can happen.

22 Q. Page 16, pictures of pain
23 clinics and people waiting in line to
24 purchase pills sold by McKesson to
25 pharmacies.

1 MS. HENN: Objection to form.

2 MR. FARRELL: You're right.

3 That's not necessarily a picture of

4 McKesson.

5 QUESTIONS BY MR. FARRELL:

■

■

■

■

■

■

12 QUESTIONS BY MR. FARRELL:

13 Q. Page 17, historical comparison.

14 He's comparing the opioid crisis to the BP

15 oil spill where 11 people were killed and BP

16 paid 40 billion, plus 16 billion to the Clean

17 Water Act.

18 Have more or less than 11

19 people been killed by the opioid crisis?

20 A. Clearly more.

21 Q. Have more people died today

22 than 11 people?

23 MS. HENN: Objection to form.

24 THE WITNESS: Based on the

25 statistics, yes.

1 QUESTIONS BY MR. FARRELL:

2 Q. Page 24. Does McKesson
3 acknowledge and agree there is a national
4 epidemic of prescription pill addiction,
5 abuse, morbidity and mortality?

6 MS. HENN: Objection to form.

7 THE WITNESS: Absolutely.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

[illegible]

■
■
■

4 QUESTIONS BY MR. FARRELL:

5 Q. They all originate within the
6 closed network, do they not?

7 MS. HENN: Objection to form.

8 THE WITNESS: What do you mean
9 by "all originate"?

10 QUESTIONS BY MR. FARRELL:

11 Q. Well, Bob, in his trailer in
12 southern West Virginia, isn't making
13 OxyContin pills.

14 A. No, I'm saying there's other --
15 I understand your point. They come
16 ultimately from the manufacturer,
17 distributor, pharmacy.

18 (McKesson-Hartle Exhibit 30
19 marked for identification.)

20 QUESTIONS BY MR. FARRELL:

21 Q. Exhibit 30, 2013_10_23, Bates
22 stamp MCKMDL00409046. This is October 23,
23 2013.

24 McKesson is in trouble again
25 with the DEA, agreed?

1 MS. HENN: Objection to form.

2 THE WITNESS: There's

3 allegations.

4 QUESTIONS BY MR. FARRELL:

5 Q. Same ones as before, agreed?

6 MS. HENN: Objection to form.

7 THE WITNESS: Related to the

8 regulations.

9 QUESTIONS BY MR. FARRELL:

10 Q. Same as the 2008?

11 MS. HENN: Objection to form.

12 THE WITNESS: Around suspicious

13 orders.

14 (McKesson-Hartle Exhibit 31

15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. Exhibit 31, dated November 6,

18 2013. It's 2013_11_6, MCKMDL00409048.

19 It's again from the United

20 States Attorney in the Northern District of

21 West Virginia. It's talking about further

22 explanations.

23 You would agree with me this is

24 the same conduct that McKesson got in trouble

25 for in 2008?

1 MS. HENN: Objection to form.

2 THE WITNESS: Yeah, it has to
3 do with suspicious orders, which is
4 similar.

5 QUESTIONS BY MR. FARRELL:

6 Q. And it's Covington & Burlington
7 at a place called 1201 Pennsylvania Avenue,
8 Northwest.

9 Do you know where that is?
10 Isn't that here?

11 MS. HENN: Old office.

12 MR. FARRELL: The old office.
13 All right.

14 THE WITNESS: In town.

15 QUESTIONS BY MR. FARRELL:

16 Q. But again, this is the same
17 thing.

18 Do you know Bill Ihlenfeld?

19 A. I do not.

20 Q. Yeah, he was the US Attorney
21 for the Northern District of West Virginia
22 and a classmate of mine. He's calling on
23 McKesson, and he's essentially telling
24 McKesson, "Hey, you're not doing your job
25 again."

1 MS. HENN: Objection to form.

2 QUESTIONS BY MR. FARRELL:

3 Q. "And you're dumping pills into
4 my state."

5 MS. HENN: Same objection.

6 (McKesson-Hartle Exhibit 32
7 marked for identification.)

8 QUESTIONS BY MR. FARRELL:

9 Q. Exhibit 32, 2014_1_XX,
10 MCKMDL00409050. In fact, they put a whole
11 presentation together.

12 Have you seen this
13 presentation?

14 A. I have seen this one.

15 Q. I'm not going to go through
16 this because we'll go through with it a lot
17 more tomorrow.

18 In essence, what I'm trying to
19 accomplish here is that you understand that
20 the United States District Attorney for the
21 Northern District of Ohio, and then it turns
22 out other ones, including Colorado, are
23 basically telling McKesson: You have a
24 systemic failure to monitor, detect and
25 report suspicious orders.

1 Is that what they're alleging?

2 MS. HENN: Objection to form.

3 THE WITNESS: Yes, that's what
4 they're alleging.

5 (McKesson-Hartle Exhibit 33
6 marked for identification.)

7 QUESTIONS BY MR. FARRELL:

8 Q. Exhibit 33, this is your
9 response, 2014_03_12, Bates-stamped
10 MCKMDL00409116.

11 This is you responding, saying,
12 "Nuh-uh, no, we didn't."

13 Does that about wrap it up?

14 MS. HENN: Objection to form.

15 QUESTIONS BY MR. FARRELL:

16 Q. You've seen this document
17 before?

18 A. I have not, so I'm going to go
19 through it.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 MS. HENN: Objection to form.

14 (McKesson-Hartle Exhibit 34

15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. In fact, Exhibit 34 is the
18 response to the presentation, March 20, 2014.
19 It's 2014_03_20, MCKMDL00409174, from my good
20 friend Bill Ihlenfeld's office, which
21 basically says "bull."

22 MS. HENN: Counsel, just to
23 clarify, I think Exhibit 33 you
24 might -- you have two documents in
25 here.

1 MR. FARRELL: Maybe. It may
2 have included it.

3 MS. HENN: Ah, is that why?

4 MR. FARRELL: Maybe.

5 MS. HENN: Okay. That's fine.
6 Just wanted to make sure you knew.

7 QUESTIONS BY MR. FARRELL:

8 Q. And at this point in time, it
9 appears that McKesson had hired AGI --

10 A. Can I read this one? I have
11 not read this one before.

12 Q. Okay. I'm not going to drill
13 you on that letter. It's got --

14 A. No, I'm about done. I just
15 wanted to read the summary here, too.

16 Okay. Thank you.

17 Q. Now, skipping through all of
18 the other correspondence because we'll get
19 into that more tomorrow, more recently, as a
20 result of all of this, even though McKesson
21 is denying liability, you understand that
22 McKesson did enter into another settlement
23 agreement?

24 A. I understand that.

25 (McKesson-Hartle Exhibits 35,

1 36 and 37 marked for identification.)

2 QUESTIONS BY MR. FARRELL:

3 Q. 2017_01_05A, 35, Exhibit 35,
4 MCKMDL00355322, the settlement agreement and
5 release.

6 Exhibit 37, 2017_01_5B,
7 MCKMDL00355477.

8 MS. HENN: Did you skip 36?

9 QUESTIONS BY MR. FARRELL:

10 Q. I didn't.
11 36 will be 2017_01_05B, the
12 compliance addendum.

13 MS. HENN: 37.

14 MR. FARRELL: Oh, okay, I'm
15 sorry. But it's okay because we'll
16 just put 36 as the administrative
17 memorandum, which is 2017_01_5C,
18 MCKMDL0355513.

19 MS. HENN: And, Counsel, we've
20 been going about an hour, so if we
21 could have a break at a good stopping
22 point. It doesn't have to be this
23 second, but if there's one very soon,
24 that would be great.

25 MR. FARRELL: Yeah, very soon.

1 MS. HENN: Great.

2 QUESTIONS BY MR. FARRELL:

3 Q. Just to acknowledge, McKesson's
4 still is denying liability, and this time the
5 cost has become more prohibitive with the
6 fine, 150 million.

7 MS. HENN: Objection to form.

8 QUESTIONS BY MR. FARRELL:

9 Q. Agreed?

10 A. Agreed. We settled with the
11 settlement agreement, agreed.

12 Q. McKesson's distribution
13 facilities were systematically failing to
14 report suspicious orders and resulted in a
15 \$150 million fine assessed by the DEA and
16 paid by McKesson Corporation; true or not
17 true?

18 MS. HENN: Objection to form.

19 THE WITNESS: We did pay that
20 fine, \$150 million.

21 QUESTIONS BY MR. FARRELL:

22 Q. Because you were systematically
23 not reporting suspicious orders?

24 MS. HENN: Same objection.

25 THE WITNESS: That was at the

1 core of it.

2 QUESTIONS BY MR. FARRELL:

3 Q. So let's just be fair. There
4 were certain distribution facilities that
5 utterly failed to fulfill their obligations
6 under federal law to monitor, detect, halt
7 and report suspicious orders, which resulted
8 in McKesson paying the largest fine in the
9 history of the DEA; true or not true?

10 MS. HENN: Objection to form.

11 THE WITNESS: Could you
12 simplify that question a little bit?

13 QUESTIONS BY MR. FARRELL:

14 Q. Yeah.

15 McKesson wasn't following the
16 law and got fined \$150 million?

17 MS. HENN: Objection to form.

18 THE WITNESS: We acknowledged
19 that certain orders did not get
20 flagged in our system.

21 QUESTIONS BY MR. FARRELL:

22 Q. Thousands.

23 MS. HENN: Objection to form.

24 QUESTIONS BY MR. FARRELL:

25 Q. Thousands of orders?

1 A. Orders.

2 Q. Like some facilities reported

3 none.

4 MS. HENN: Objection to form.

5 QUESTIONS BY MR. FARRELL:

6 Q. Yes?

7 A. Systematically none.

8 Q. Systematically none.

9 And it wasn't just an isolated
10 distribution facility. It was several
11 different facilities across the spectrum at
12 McKesson had utterly failed to comply with
13 federal regulations to prevent diversion of
14 controlled substances?

15 MS. HENN: Objection to form.

16 THE WITNESS: We believed we
17 were in good faith working with DEA as
18 part of the 2008 agreement to report
19 customers and report orders in a
20 different way that was mutually agreed
21 upon. So --

22 QUESTIONS BY MR. FARRELL:

23 Q. Yeah, I'm not asking --

24 A. -- I would say --

25 MR. FARRELL: You're right.

1 You're right.

2 THE WITNESS: I know you say
3 zero, but I -- you know, there are
4 situations and scenarios where we
5 reported based on what we agreed to
6 with the DEA, based on that settlement
7 agreement.

8 So I understand systematically
9 they weren't being reported, but they
10 were being reported in other ways.

11 QUESTIONS BY MR. FARRELL:

12 Q. Sitting here today does
13 McKesson Corporation acknowledge that it
14 utterly failed in its obligations to prevent
15 diversion of opium pills into the American
16 illicit market?

17 MS. HENN: Objection to form.

18 THE WITNESS: No, I don't
19 believe we utterly failed. We, again,
20 in good faith over the years have
21 worked with DEA, taken guidance,
22 developed programs, enhanced programs,
23 evolved them over the course of time.

24 So I wouldn't characterize it
25 as utterly failing.

1 QUESTIONS BY MR. FARRELL:

2 Q. Well, when you report zero
3 suspicious orders over years at the same time
4 selling tens of millions of opium pills into
5 a community, you're not meeting your
6 obligations under federal law, agreed?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, there's
9 certain times in which we acknowledged
10 that we did not report orders. That
11 does not mean that we did not conduct
12 diligence, that we did not evolve our
13 program to help prevent.

14 QUESTIONS BY MR. FARRELL:

15 Q. And I understand the desire to
16 want to say in good faith you did your best.
17 What I'm asking for is a very simple
18 acknowledgement that McKesson was not
19 following the law and got fined for it on two
20 occasions.

21 MS. HENN: Objection to form.

22 THE WITNESS: Those were the
23 allegations.

24 QUESTIONS BY MR. FARRELL:

25 Q. Do you accept those allegations

1 as partially true?

2 MS. HENN: Objection to form.

3 THE WITNESS: Again, we --

4 partially, in the second agreement, we

5 did acknowledge that, you know, we

6 didn't identify all the suspicious

7 orders that we could have.

8 QUESTIONS BY MR. FARRELL:

9 Q. In fact, in some distribution
10 facilities you didn't identify any?

11 MS. HENN: Objection to form.

12 QUESTIONS BY MR. FARRELL:

13 Q. This isn't like we missed a
14 needle in a haystack. This is we missed the
15 hay.

16 MS. HENN: Objection to form.

17 THE WITNESS: So the thing I
18 would just share is that, again, all
19 of those orders were blocked and not
20 shipped. And we may not have
21 systematically, as I mentioned
22 earlier, reported, but --

23 MR. FARRELL: Hold on.

24 MS. HENN: Wait, he's not done
25 with his answer.

1 THE WITNESS: I'm just
2 reiterating the point I made earlier
3 about the 2008 agreement, mutually
4 discussing with DEA the fact that we
5 were focusing on customers and would
6 report suspicious orders in a mutually
7 format -- a mutually-agreed-upon
8 format.

9 So you say zero, but it may not
10 always be zero.

11 QUESTIONS BY MR. FARRELL:

12 Q. Just to be fair with you, we're
13 going to take a break.

14 A. All right.

15 Q. I have the transactional data
16 in Cuyahoga and Summit County from McKesson
17 sales of opium pills. I also have the
18 suspicious order reports.

19 So let's be clear: McKesson
20 didn't get in trouble for blocking orders and
21 not reporting them. McKesson paid a record
22 fine for shipping suspicious orders and not
23 reporting them.

24 MS. HENN: Objection to form.

25 THE WITNESS: Say that again.

1 I want to be very clear what I heard.

2 QUESTIONS BY MR. FARRELL:

3 Q. Me, too.

4 A. Yeah.

5 Q. You're telling me that
6 McKesson's conduct that it admitted to,
7 McKesson's position is that it blocked
8 suspicious orders and then just simply didn't
9 report them in the right way. That's your
10 position?

11 A. We systematically -- based on
12 the design of our system, orders were
13 blocked.

14 Q. You believe that McKesson was
15 blocking all the suspicious orders and paid
16 \$150 million because of the manner in which
17 it reported?

18 A. Earlier I said we did
19 acknowledge that some orders, not all, we
20 didn't block.

21 Q. Okay. So let's get back --

22 A. We didn't -- let me rephrase
23 that. We acknowledge that our system may not
24 have detected orders that could be deemed as
25 suspicious.

1 Q. And that the orders that your
2 system did detect as suspicious, you still
3 shipped anyway without reporting them?

4 MS. HENN: Objection to form.

5 THE WITNESS: No.

6 QUESTIONS BY MR. FARRELL:

7 Q. You believe that's not true?

8 A. Based on my understanding of
9 our systems and how things work in -- when
10 they hit a threshold and they're blocked,
11 those do not get shipped.

12 Q. All right. So fair --

13 A. That's how we define those
14 suspicious orders.

15 Q. Fair enough.

16 Let me ask you this: If your
17 system detects a suspicious order and you
18 ship it anyway and you don't report it, is
19 that unlawful?

20 MS. HENN: Objection to form.

21 THE WITNESS: Please say that
22 again.

23 QUESTIONS BY MR. FARRELL:

24 Q. If your system detects a
25 suspicious order and you ship it anyway

1 without reporting it, is that unlawful?

2 MS. HENN: Objection to form.

3 THE WITNESS: I think it
4 depends.

5 QUESTIONS BY MR. FARRELL:

6 Q. On?

7 A. There could be a technical
8 glitch --

9 Q. Okay.

10 A. -- or some computer error. I
11 mean --

12 Q. I'm talking about hundreds and
13 hundreds and hundreds of orders that are
14 red-flagged by McKesson and shipped anyway
15 without reporting a suspicious order.

16 The US Attorney for the
17 Northern District of West Virginia doesn't
18 say this was a technical glitch. He says it
19 was a systematic failure by your company to
20 abide by West Virginia law -- or federal law.

21 You paid a record fine, and
22 you're disavowing the underlying conduct
23 today?

24 MS. HENN: Objection to form.

25 THE WITNESS: I'm just trying

1 to communicate that our system that
2 was designed to detect suspicious
3 orders using the concept of thresholds
4 blocked all of the -- blocked those
5 suspicious orders.

6 We recognize that and
7 acknowledge that it may not have
8 picked up on all of the suspicious
9 orders and...

10 MR. FARRELL: One more and
11 we'll take a quick break.

12 MS. HENN: If it's okay, I'd
13 like to take it now. It's been now an
14 hour and 15 minutes. It's pretty
15 tiring to be a witness. So if we
16 could just take a five-minute break,
17 that would be great.

18 MR. FARRELL: Okay.

19 MS. HENN: Thank you.

20 VIDEOGRAPHER: The time is 4:29
21 p.m. We're going off the record.

22 (Off the record at 4:29 p.m.)

23 VIDEOGRAPHER: The time is
24 4:45 p.m. We're back on the record.

25 MR. FARRELL: Thank you.

1 So we have about an hour left;
2 we've been going about -- almost six
3 hours. So by agreement we've kept the
4 deposition days to seven hours long,
5 and I'll honor that.

6 MS. HENN: More than by
7 agreement. It's also ordered by the
8 judge.

9 MR. FARRELL: No question.

10 MS. HENN: Just a slight
11 clarification.

12 MR. FARRELL: No question.
13 Seven hours of answering questions is
14 enough for anybody.

15 MS. HENN: It is.

16 MR. FARRELL: That being said,
17 I know there's a burden on travel and
18 arrangements; we have a tight
19 schedule. So what I'm going to do is
20 I'm going to finish up some topics,
21 and I'm going to state for the record
22 that I have not been able to get
23 through all of the designated topics
24 today.

25 That being said, there are some

1 additional topics that you were not
2 designated for. There's essentially
3 two notices.

4 So what we're -- what I'm going
5 to do is recommend that I finish up
6 the topics that I want to get to, and
7 then tomorrow is your fact deposition.
8 And what we'll do is work out with
9 counsel if there are any of these
10 questions that can be answered in
11 writing to avoid you having to come
12 back and testify on things that can be
13 answered.

14 And then in addition, there are
15 records and there are -- there is
16 transactional data historically and
17 suspicious order report historically
18 that have not been disclosed yet
19 because of our tight schedules that
20 I'll -- I will be going to ask --
21 eventually to ask for some additional
22 time from you to finish the stuff we
23 didn't get to finish and to ask
24 questions about documents that have
25 not been disclosed yet.

1 Obviously, it's going to be
2 subject to the objection of your
3 lawyers, and I just wanted to place
4 that on the record.

5 QUESTIONS BY MR. FARRELL:

6 Q. Jumping in real quick, I'm not
7 going to spend a whole lot of time on this; I
8 have a very specific question.

9 Before we get into the
10 document, there's a reference in here about
11 heroin, and I just wanted to see if I could
12 cut to the chase with you.

13 A. Okay.

14 Q. As the McKesson corporate
15 representative, do you acknowledge that abuse
16 of prescription opium pills is a gateway to
17 the initiation of heroin?

18 MS. HENN: Objection to form.
19 Outside the scope.

20 THE WITNESS: Based on
21 everything that I've read and in the
22 media and statistics and discussion, I
23 would agree -- agree to that.

24 QUESTIONS BY MR. FARRELL:

25 Q. If you abuse prescription

1 opiates, the CDC says that you're 40 times
2 more likely to initiate heroin use.

3 Does McKesson acknowledge
4 that -- that prescription opiate pill abuse
5 is a driving factor in the heroin epidemic
6 we're also experiencing?

7 MS. HENN: Objection to form.
8 Outside the scope.

9 THE WITNESS: Yeah, it's a
10 factor.

11 QUESTIONS BY MR. FARRELL:

12 Q. That was easy.

13 A. Yeah.

14 Q. All right. Back to this amicus
15 business.

16 (McKesson-Hartle Exhibit 38
17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to mark as
20 Exhibit 38, it's 2016_04_04. This is another
21 amicus brief. This one is Masters
22 Pharmaceutical.

23 Does McKesson acknowledge that
24 in 2016 when this amicus brief was submitted
25 that it was still on the executive committee

1 of HDMA?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 THE WITNESS: I can't speak to
5 that. If I saw a list of who was on
6 the executive committee...

7 (McKesson-Hartle Exhibit 39
8 marked for identification.)

9 QUESTIONS BY MR. FARRELL:

10 Q. Fair enough. Exhibit 39,
11 2016_04_05, the Wayback Machine.

12 So looking at the Exhibit 39,
13 can you acknowledge that McKesson was on the
14 executive board of HDMA --

15 A. Yes.

16 Q. -- at the time that this amicus
17 brief was submitted?

18 A. Yes.

19 Q. Have you had a chance to review
20 the amicus brief?

21 A. I had a chance to look at some
22 of the highlighted sections.

23 Q. So let's go to 2016_04_04,
24 page 5.

25 A. Page 5.

1 Q. Down the right-hand side, you
2 can see two-thirds of the way down it starts,
3 "DEA." The one below that. Yeah.

4 "DEA has required distributors
5 not only to report suspicious orders but to
6 investigate orders by interrogating
7 pharmacies and physicians and take action to
8 halt suspicious orders before they are
9 filled. Those added obligations would
10 significantly expand a report-only duty of
11 distributors under the long-standing
12 regulatory scheme and impose impractical
13 obligations on distributors."

14 Is that McKesson's position?

15 MS. HENN: Objection to form.

16 Outside the scope.

17 THE WITNESS: Obviously we're
18 part of the organization. In parts,
19 you know, I agree with the added --
20 what it would -- you know, the added
21 responsibility or time that it would
22 take to -- you know, to investigate
23 each order.

24 I don't know if I'm answering
25 your question, but...

1 QUESTIONS BY MR. FARRELL:

2 Q. You're stumbling toward it.

3 A. Yeah.

4 Q. Let's go to page 6, a little
5 more direct. The second highlighted
6 provision: "As the final order in this case
7 underscores, however, DEA now appears to have
8 changed its position to require that
9 distributors not only report suspicious
10 orders but investigate and halt suspicious
11 orders."

12 This is a 2016 document by your
13 trade organization, of which McKesson sits on
14 the executive board, and its telling the DC
15 Circuit Court of Appeals that it does not
16 have a duty to investigate and halt
17 suspicious orders.

18 Does McKesson validate this
19 position?

20 MS. HENN: Objection to form.

21 THE WITNESS: Can you rephrase
22 that for me?

23 QUESTIONS BY MR. FARRELL:

24 Q. Yeah.

25 In 2016, your trade

1 organization is telling the second highest
2 court in the land, the DC Circuit Court of
3 Appeals, that the DEA is now requiring them
4 to investigate and halt suspicious orders.

5 Haven't we agreed that's been
6 the duty since 1971?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 QUESTIONS BY MR. FARRELL:

10 Q. Tough position to defend, isn't
11 it?

12 MS. HENN: Same objections.

13 THE WITNESS: You know, again,
14 I -- I recognize that other
15 distributors have different systems
16 and have worked with DEA over the
17 years on different methodologies,
18 whether it's a threshold to block it
19 or it's a hold and investigate and
20 then block it. And so, you know, I
21 recognize that.

22 QUESTIONS BY MR. FARRELL:

23 Q. You recognize this position is
24 problematic given your experience, McKesson
25 Corporation, with the DEA?

1 MS. HENN: Objection to form.

2 THE WITNESS: I recognize that
3 I'm sure there's lots of disagreements
4 about this.

5 QUESTIONS BY MR. FARRELL:

6 Q. Yeah.

7 But we're still trying to
8 figure out from internal communications
9 whether or not McKesson signed off on this
10 brief.

11 Are you aware of whether or not
12 they signed off on this?

13 MS. HENN: Objection to form.

14 THE WITNESS: I don't -- I am
15 not aware of the process that goes
16 into signing off on these briefs and
17 what that specific looks like. I know
18 how trade organizations work and how
19 they get to a point of consensus.

20 QUESTIONS BY MR. FARRELL:

21 Q. Let me ask you in a different
22 way.

23 We talked about the original
24 enactment of the Controlled Substances Act
25 where the penalty for engaging in unlawful

1 conduct should be prohibitive.

2 Do you remember talking about
3 that this morning?

4 A. I do.

5 Q. And so in 2008, McKesson
6 Corporation paid \$13 million, and in 2017,
7 McKesson paid \$150 million.

8 What would happen in today's
9 world if McKesson went to the DEA and said,
10 "We don't have a duty to investigate and halt
11 suspicious orders"? What do you reckon would
12 happen then?

13 MS. HENN: Objection to form.
14 Outside the scope.

15 THE WITNESS: I'm not sure
16 exactly what would happen, but they
17 wouldn't be thrilled.

18 QUESTIONS BY MR. FARRELL:

19 Q. So what do you think the fine
20 will be next time?

21 A. I can't speculate what it would
22 be. It depends on the facts and
23 circumstances and...

24 Q. So just simply stated, sitting
25 here today, McKesson Corporation, do you

1 accept or reject the position your trade
2 organization is taking regarding the
3 interpretation of the shipping requirement
4 and reporting requirement?

5 MS. HENN: Objection to form.
6 Outside the scope.

7 THE WITNESS: I apologize. Can
8 you ask -- ask me again or rephrase?
9 Do we accept --

10 QUESTIONS BY MR. FARRELL:

11 Q. Yeah.

12 The sentence you see up there
13 on the screen --

14 A. Yeah.

15 Q. -- submitted by your trade
16 organization to which McKesson sits as an
17 executive board member, this is a position in
18 a legal document submitted to the second
19 highest court in the United States of
20 America.

21 Sitting here today, does
22 McKesson Corporation accept or reject this
23 position?

24 MS. HENN: Objection to form.
25 Outside the scope.

1 THE WITNESS: I'd say we accept
2 this -- accept this --

3 QUESTIONS BY MR. FARRELL:

4 Q. You accept --

5 A. -- as part of that
6 organization.

7 Q. What is that?

8 A. As being part of that
9 organization.

10 Q. So your position today is
11 McKesson does not have a duty to investigate
12 and halt suspicious orders?

13 MS. HENN: Objection to form.

14 QUESTIONS BY MR. FARRELL:

15 Q. You're in a tough spot here.

16 A. I can tell you what our program
17 does, right? We halt -- we block suspicious
18 orders.

19 Q. All right. So let's go
20 further. Page 8. "The 2006 letter from Joe
21 Rannazzisi fails to explain how the statutory
22 command of the US Code 823 Section E, a
23 command that the Attorney General consider
24 when adjudicating an application for
25 registration of the applicant's maintenance

1 of effective controls against diversion" --

2 MS. HENN: I'm sorry, you're on
3 page 8. I believe the witness is on
4 page 9.

5 THE WITNESS: Oh, excuse me.
6 Sorry. I was figuring that out when I
7 looked up there.

8 QUESTIONS BY MR. FARRELL:

9 Q. I'm sorry.

10 A. No, that's me.

11 Q. Basically, the position in this
12 brief is they're trying to figure out how in
13 the world that 2006 letter became a command
14 to distributors to engage in due diligence
15 and avoid filling suspicious orders.

16 MS. HENN: Objection to form.

17 QUESTIONS BY MR. FARRELL:

18 Q. How can you defend this
19 position, knowing that Masters Pharmaceutical
20 opinion that was released rejected in its
21 entirety this position?

22 So what I'm really trying to
23 figure out is whether McKesson has been so
24 intransigent that it continues to pay fines
25 to the DEA fighting its interpretation of the

1 federal regulations until such time as the DC
2 Circuit Court of Appeals told them so.

3 MS. HENN: Objection to form.

4 MR. FARRELL: Terrible

5 question?

6 QUESTIONS BY MR. FARRELL:

7 Q. You get the gist of what I'm
8 asking you?

9 A. Can you ask it in a different
10 way?

11 Q. Yeah.

12 This appears to say that
13 McKesson does not have a duty to engage in
14 due diligence, nor does it need to avoid
15 filling suspicious orders.

16 Is that your position sitting
17 here today?

18 MS. HENN: Objection to form.

19 QUESTIONS BY MR. FARRELL:

20 Q. "You can't make me," is that
21 the position McKesson is taking?

22 MS. HENN: Objection to form.

23 QUESTIONS BY MR. FARRELL:

24 Q. I promise I'll quit if you just
25 simply say that this position here is

1 nonsense.

2 MS. HENN: Objection to form.

3 THE WITNESS: I can say -- I
4 can't say that it's nonsense. I'm not
5 sure how to answer this one
6 specifically.

7 QUESTIONS BY MR. FARRELL:

8 Q. Go to page Bates stamp 9.
9 "Nothing in the federal regulations requires
10 distributors to investigate the legitimacy of
11 orders or to halt shipments of any orders
12 deemed to be suspicious."

13 Does McKesson disavow this
14 statement or agree with it?

15 MS. HENN: Objection to form.

16 THE WITNESS: You know, I do
17 think the language of the regulations,
18 you know, "design and operate a system
19 to disclose suspicious orders," gets
20 interpreted in many different ways,
21 and that -- and that's how different
22 organizations, distributors, develop
23 their program.

24 QUESTIONS BY MR. FARRELL:

25 Q. Respectfully, that's how you

1 get fined \$150 million.

2 MS. HENN: Objection to form.

3 QUESTIONS BY MR. FARRELL:

4 Q. The next sentence: "There is
5 no prohibition on shipment of suspicious
6 orders."

7 That's wrong, isn't it?

8 MS. HENN: Objection to form.

9 QUESTIONS BY MR. FARRELL:

10 Q. Make it easier. Let's go to
11 page 12.

12 "DEA's regulations had sensibly
13 imposed a duty on distributors simply to
14 report suspicious orders, but left it to DEA
15 and its agents to investigate and halt
16 suspicious orders."

17 Nonsense or not nonsense?

18 MS. HENN: Objection to form.

19 QUESTIONS BY MR. FARRELL:

20 Q. Or no comment? I'm giving you
21 an out.

22 A. I would say no comment. I'm
23 not sure how to answer that specifically.

24 Q. Well, the answer should be
25 someone needs to call HDMA and figure out why

1 they're taking nonsense positions, but I'll
2 leave that to somebody else.

3 All right. Homestretch. Some
4 toys. As many at this table probably know,
5 I'm the ARCOS nerd.

6 You're familiar with ARCOS?

7 A. I'm familiar with what it is,
8 yep.

9 Q. I'm the guy that's been banging
10 away trying to get access to ARCOS for the
11 better part of a year and a half, and I got
12 some.

13 Now, what this is is the
14 transactions by every distributor in the
15 country between 2006 and 2014, and it's
16 related to Cuyahoga and Summit County. Now,
17 we also have the rest of the country, so I'm
18 able to determine national averages, state
19 averages and county averages for every
20 distributor, including McKesson. But we're
21 not going to get into all of that today
22 because what I really need is I need the
23 transactional data dating back to 1996. I'm
24 missing a decade. I have '06 to 2014.

25 Last week, July 25th, your

1 counsel provided a spreadsheet that gave us
2 2006 to 2018. All right? So we've had it
3 for a week. I played with it a little bit.

4 But I don't have the decade
5 from the launch of OxyContin to 2006 yet, but
6 I'm working on it. So one day we may come
7 back and have to talk about this
8 transactional data in a different context.

9 But that being said, one of the
10 interesting things that I did was I grabbed
11 the data provided by your counsel, and I
12 pulled it up and took a look at it.

13 MR. FARRELL: Corey, can you
14 pull that up?

15 QUESTIONS BY MR. FARRELL:

16 Q. Now, the first thing I want you
17 to note is this is highly confidential.
18 Nobody in here is allowed to talk about it
19 outside this room.

20 And it's MCKMDL00478913.

21 MR. FARRELL: Is that right?

22 MS. HENN: I see

23 MCKMDL00478913. That may be the same.

24 QUESTIONS BY MR. FARRELL:

25 Q. Okay. Can either you or your

1 counsel confirm that this is the complete
2 transactional data for McKesson in Cuyahoga
3 and Summit counties between 2006 and 2018?

4 MS. HENN: Object to form.

5 Go ahead.

6 THE WITNESS: I wasn't involved
7 in pulling it, so I can't -- without
8 seeing, I can't confirm that it's
9 everything.

10 MR. FARRELL: Yeah, it's really
11 a question for your counsel, but I'm
12 not allowed to put her under oath, so
13 I'm hoping she'll volunteer.

14 MS. HENN: That's my
15 understanding, but I'm not the person
16 who is most knowledgeable about this,
17 so you should ask one of my
18 colleagues.

19 QUESTIONS BY MR. FARRELL:

20 Q. So all of these questions are
21 predicated on the fact that this appears to
22 be the transactional data that was uploaded
23 to RICOH Relativity by McKesson, but because
24 there's no discovery document that itemizes
25 what's what, this is all I know.

1 Spreadsheet has up top the
2 Bates stamp number.

3 MR. FARRELL: And, Corey, if
4 you'll click on the letter A, it'll
5 tell us how many transactions there
6 are.

7 QUESTIONS BY MR. FARRELL:

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

7 MS. HENN: Objection to form.

8 QUESTIONS BY MR. FARRELL:

9 Q. Because remember, there was a
10 period of time where there were 300,000
11 prescriptions of OxyContin, and then -- in
12 '96, and then by 2001 there were 6 million,
13 right?

14 So when we get the data for the
15 first ten years, we're going to see a
16 progression of the number of pills being
17 delivered. Okay?

18 So one of the things that I'm
19 going to have you do is we're able to do some
20 analysis with the ARCOS data.

21 MR. FARRELL: So, Corey, if
22 you'll bring up Summit County PDF.

23 MS. HENN: Do you have a
24 document that we can look at? No?

25 MR. FARRELL: Not yet, no.

1 QUESTIONS BY MR. FARRELL:

Response	Percentage
Yes, the U.S. should take action to reduce greenhouse gas emissions	85%
No, the U.S. should not take action to reduce greenhouse gas emissions	15%

Age Group	Percentage
18-24	10%
25-34	15%
35-44	25%
45-54	35%
55-64	40%
65-74	45%
75-84	50%
85+	55%

1 MS. HENN: Counsel, just -- I
2 just want to interpose really quickly.
3 We would like this in the record with
4 an exhibit number, at least maybe the
5 version you have. I think that's
6 going to be necessary to understand
7 the deposition transcript and required
8 by the protocol.

9 MR. FARRELL: That's fair
10 enough.

11 MS. HENN: But I don't want to
12 interrupt you. Please continue.

13 QUESTIONS BY MR. FARRELL:

14 Q. So now what I'm going to do is
15 I'm going to -- we're going -- --

■ ■ [REDACTED]
■ [REDACTED]
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25 Q. Okay. Fair enough.

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[REDACTED]

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15 MR. FARRELL: Counsel?

16 MS. HENN: Again, I'm not the

17 best person to ask that question of.

18 You can ask the witness if you'd like.

19 QUESTIONS BY MR. FARRELL:

[REDACTED]

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This image shows a single sheet of white paper with horizontal blue or grey ruling lines. A vertical margin line is positioned on the left side, creating a narrow left margin. The paper appears to be a standard notebook page or a form template. There are no markings, text, or illustrations on the page.

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4 Q. So you understand the position
5 about reporting suspicious customers McKesson
6 made to the United States District Attorney
7 in northern West Virginia and resulted in
8 you-all getting fined 150 million. So what
9 I'm trying to figure out is whether or not
10 the same systemic errors were going on for --
11 which resulted in these pills going to
12 Cuyahoga and Summit County.

13 Do you see where I'm going with
14 it?

15 MS. HENN: And, Counsel, I
16 would just point out that he said he
17 had a couple parts to his answer, and
18 we need to listen to his whole answer
19 to know what it is.

20 Go right ahead.

[REDACTED]

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14 QUESTIONS BY MR. FARRELL:

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A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The categories are not labeled, but the bars represent data points for each category.

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- **1. Introduction**
- **2. Background**
- **3. Methodology**
- **4. Results**
- **5. Discussion**
- **6. Conclusion**
- **7. References**
- **8. Appendix**
- **9. Glossary**
- **10. Acknowledgments**
- **11. Funding**
- **12. Conflicts of Interest**
- **13. Data Availability**
- **14. Ethics Approval**
- **15. Informed Consent**
- **16. Author Contributions**
- **17. Institutional Review Board**
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- **21. Results of Statistical Analysis**
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6 QUESTIONS BY MR. FARRELL:

7 Q. Do you agree that one of the
8 foreseeable harms of engaging in unlawful
9 conduct in the distribution of prescription
10 opioids is diversion?

11 MS. HENN: Objection. Form.

12 THE WITNESS: Could you ask
13 that again?

14 QUESTIONS BY MR. FARRELL:

15 Q. One of the harms --

16 A. You said foreseeable first, but
17 harms --

18 Q. I'll go back and do it.

19 Do you agree that one of the
20 foreseeable harms of engaging in unlawful
21 conduct in the distribution of prescription
22 opioids is diversion?

23 MS. HENN: Objection to form.

24 THE WITNESS: I think it can
25 be.

1 QUESTIONS BY MR. FARRELL:

2 Q. Do you agree that filling
3 suspicious orders is a direct and proximate
4 cause of prescription opioid abuse,
5 addiction, morbidity and mortality?

6 MS. HENN: Objection to form.

7 THE WITNESS: Filling specific
8 orders?

9 MS. HENN: Suspicious orders is
10 the word he used.

11 THE WITNESS: Suspicious
12 orders.

13 There's a lot of reasons for --
14 that orders may get flagged as
15 suspicious, so I think it depends.

16 QUESTIONS BY MR. FARRELL:

17 Q. That's fair.

18 A. They'll get flagged as an order
19 of unusual size, frequency or pattern and not
20 mean that it's suspicious or
21 diversion-related.

22 Q. Do you believe the prescription
23 opiate epidemic is an immediate hazard to
24 public health and safety?

25 MS. HENN: Objection to form.

1 THE WITNESS: How do you -- how
2 are you defining "immediate hazard"?

3 QUESTIONS BY MR. FARRELL:

4 Q. A hazard.

5 A. A hazard?

6 Sure.

7 MR. FARRELL: Okay. We will
8 adjourn with the reservation of rights
9 for one day, continuing the subject
10 matters that most interest the
11 plaintiffs in the MDL in the 30(b)(6)
12 notices.

13 MS. HENN: And, I mean, we will
14 object to continuing past the limit
15 set by the Court. We feel that there
16 was a lot of time today that was spent
17 asking legal questions that could have
18 been spent on topics.

19 MR. FARRELL: There was also a
20 lot of time spent reading documents
21 that were listed in my 30(b)(6).

22 MS. HENN: Documents that you
23 put in front of the witness and wanted
24 him to read.

25 But more importantly, I wanted

1 to ask the court reporter to please
2 designate this transcript
3 provisionally highly confidential,
4 which is required under the deposition
5 protocol, and I also wanted to reserve
6 the right to read and sign.

7 I have no questions, and so I
8 think we are finished.

9 VIDEOGRAPHER: Okay. The time
10 is 5:47 p.m., July 31, 2018. Going
11 off the record completing today's
12 videotaped session.

13 (McKesson-Hartle Exhibit 40
14 marked for identification.)

15 (Deposition concluded at 5:47 p.m.)

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25

CERTIFICATE

I, CARRIE A. CAMPBELL, Registered
Diplomate Reporter, Certified Realtime
Reporter and Certified Shorthand Reporter, do
hereby certify that prior to the commencement
of the examination, Nathan J. Hartle was duly
sworn by me to testify to the truth, the
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the
foregoing is a verbatim transcript of the
testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth, to the best of my
ability.

I DO FURTHER CERTIFY that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel, and
that I am not financially interested in the
action.

CARRIE A. CAMPBELL,
NCRA Registered Diplomate Reporter
Certified Realtime Reporter
California Certified Shorthand
Reporter #13921
Missouri Certified Court Reporter #859
Illinois Certified Shorthand Reporter
#084-004229
Texas Certified Shorthand Reporter #9328
Kansas Certified Court Reporter #1715
Notary Public
Dated: August 3, 2018

1 INSTRUCTIONS TO WITNESS

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3 Please read your deposition over
4 carefully and make any necessary corrections.
5 You should state the reason in the
6 appropriate space on the errata sheet for any
7 corrections that are made.

8 After doing so, please sign the
9 errata sheet and date it. You are signing
10 same subject to the changes you have noted on
11 the errata sheet, which will be attached to
12 your deposition.

13 It is imperative that you return
14 the original errata sheet to the deposing
15 attorney within thirty (30) days of receipt
16 of the deposition transcript by you. If you
17 fail to do so, the deposition transcript may
18 be deemed to be accurate and may be used in
19 court.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the foregoing
pages and that the same is a correct
transcription of the answers given by me to
the questions therein propounded, except for
the corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

Nathan J. Hartle

DATE

Subscribed and sworn to before me this
_____ day of _____, 20 _____.

My commission expires: _____

Notary Public

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	ERRATA		
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LAWYER'S NOTES

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